GOD IN FREEDOM

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GOD IN FREEDOM

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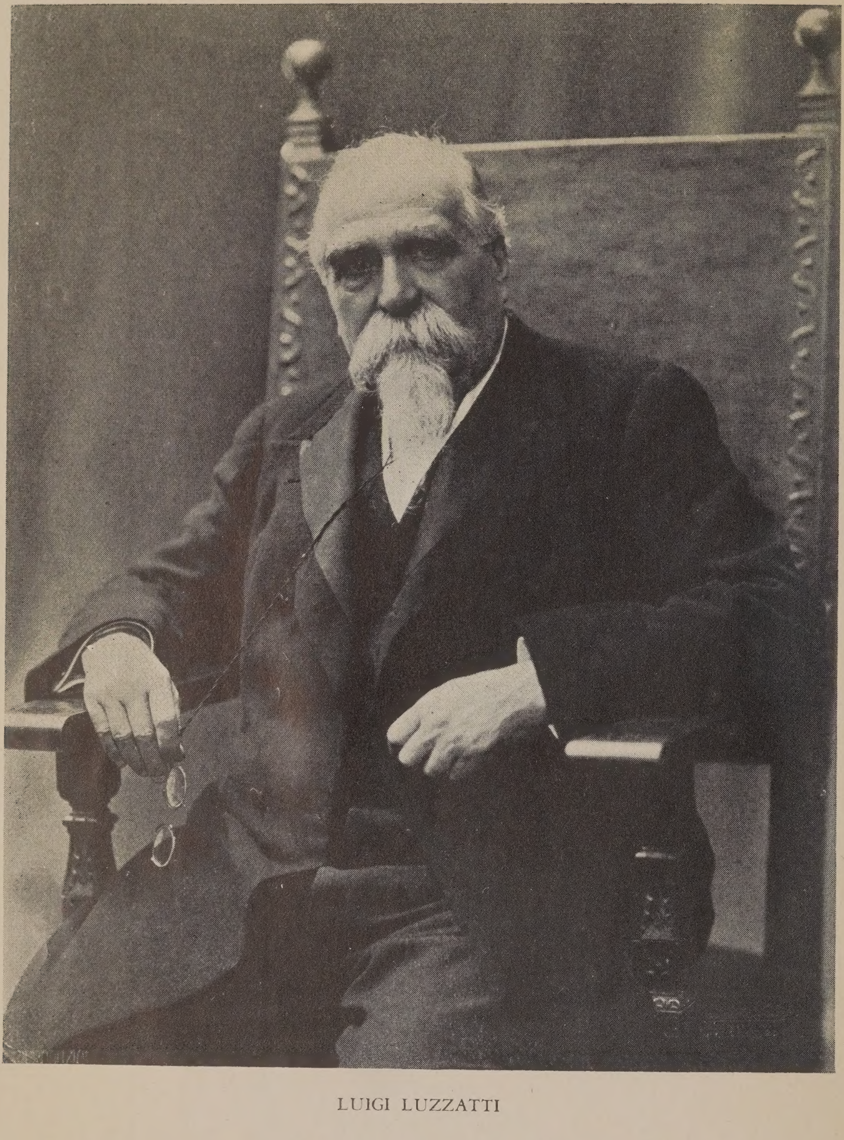

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GOD IN FREEDOM

STUDIES IN THE RELATIONS BETWEEN CHURCH AND STATE

BY THE LATE
LUIGI LUZZATTI
Prime Minister of Italy and Professor of Public Law
at the University of Rome

Translated from the Italian by
ALFONSO ARBIB-COSTA

WITH AMERICAN SUPPLEMENTARY CHAPTERS BY
PRESIDENT WILLIAM H. TAFT, HON. IRVING LEHMAN,
LOUIS MARSHALL, MAX J. KOHLER, DR. DORA ASKOWITH

Issued in Commemoration of the One Hundred and Fiftieth
Anniversary of the Constitutional Establishment of
Religious Liberty

NEW YORK
THE MACMILLAN COMPANY
1930

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Set up and electrotyped. Published September, 1930.

SET UP BY BROWN BROTHERS LINOTYPERS
PRINTED IN THE UNITED STATES OF AMERICA
BY THE STRATFORD PRESS

TO THE MEMORY OF

LOUIS MARSHALL AND JACOB H. SCHIFF

LEADERS IN THE MOVEMENTS FOR THE ABROGATION OF THE TREATY OF 1832 BETWEEN THE UNITED STATES AND RUSSIA AND FOR THE INTERNATIONAL PROTECTION OF RELIGIOUS MINORITIES
THIS BOOK IS DEDICATED BY THE EDITOR

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EDITOR'S PREFACE

Luigi Luzzatti's *Dio Nella Libertà* (God in Freedom) was published in its original form in Italian in 1909 under the title *La Libertà di Coscienza e di Scienza.* Soon thereafter it appeared in French, German and Japanese translations. In 1926 the distinguished author enlarged it to about double its original size, to constitute the second volume of his collected Italian works. It is this edition which is here presented in English garb.

The editor hereof has no hesitation in describing the work as the most valuable and comprehensive book heretofore published on the history of religious liberty. The erudition and versatility of the author are remarkable. He includes sketches of champions of religious liberty who lived in the Far East long before the beginning of the Christian era, and his narrative embraces the movements for the separation of church and state in our own day in France, Scotland, Wales and Geneva. Distinguished leaders in this cause who lived in India, Persia, China, Japan, and the Ottoman Empire are fully treated, as also early Church Fathers, to say nothing of General Bolivar in Bolivia, and great exponents in Europe and the United States. The editor, who has himself been a devoted student of the history of religious liberty for over thirty years, must confess that many of the names, even, thus included were theretofore unknown to him. It was the ardent wish of Professor Luzzatti to present his work to English-speaking readers, especially as it clearly reveals not merely close familiarity with the history of the movement in English-speaking lands, acquired during nearly seventy years of investigation, but recognizes that there his ideals have been most fully realized. He died, however, on March 29, 1927, before such arrangements were completed, but his family heartily authorize publication of this English translation.

Our author wrote with almost unique authority, combining, as he did, the erudition of the outstanding scholar with the grasp of affairs of the distinguished statesman, who had himself on many occasions during his long and beneficent life battled in the cause of religious liberty. His book itself reveals his activities as champion of religious liberty in Italy, again as friend of the Scotch church, and meantime as champion of his persecuted Jewish coreligionists of Russia and Roumania. The biographical sketch appearing herein gives us a further glimpse of him as protector of the persecuted Armenians, and in the course of an interesting interview which he gave to an American journalist (Reuben Brainin, writing on "Luigi Luzzatti on Jews and Judaism" in the *Jewish Tribune* of New York, January 8, 1926), he divulged the theretofore unknown fact that he had been influential in inducing Italy to advocate religious liberty provisions at the famous Congress of Berlin of 1878. In the course of this very book, he indicates why he is able to treat all creeds so impartially and yet so loftily; he writes:

> I am a theist, outside every church; one who sucks honey from every faith, from every philosophy, and considering religions as facts of human natural history, I defend their liberty; and feel injured by every offense to every creed, whichever it may be. . . . But the defense of heavenly freedom in whatever corner of the world it is violated, is the condition, the food, of my moral life. I defend the inviolability of all religious and philosophical faiths, and therefore I am. This is my application of the famous Cartesian dictum.

It is obvious that the author, in the preparation of this volume, too, had in mind Bolingbroke's famous saying that "history is philosophy, teaching by example." A history of religious liberty is, necessarily, a plea for religious liberty. Such thought underlies the statement contained in a letter from Senator Luzzatti to the writer hereof, dated Rome, March 14, 1925, which concluded with the significant phrase: "The strife for religious liberty is not ended, unhappily, because religious minorities are suffering in too many countries still." One can imagine the gratification of the author on learning that the Japanese translation of his book was itself successfully employed to stop a prosecution in the Far East, through its demonstration that Buddhism is opposed to religious intolerance.

As above pointed out, *Dio Nella Libertà* was published as volume two of the author's collected writings, and for convenience the Italian work included several chapters, aggregating only about thirty-two pages, which are scarcely germane to a work bearing the sub-title "Studies in the Relations between Church and State," though more appropriately included in this volume than in any other of his works. It has therefore been deemed wiser to omit the following chapters in this translation: "*Vers le soleil qui se lève;*" "More of Tagore and European Civilization;" "A Case of Hyper-Criticism in Biblical Texts;" "Communication on the Works of E. Caporali;" "Constitutional Treatment for Diseased Democracies;" "Methods in the Study of Constitutional Law;" and "Technical Progress in the Statutes Enacted in the Anglo-Saxon World." Logically the chapter on "Decline and Revival of Parliamentary Rule" ought also to have been omitted for these same reasons, but it presents such an interesting and characteristic history of political parties, and such a fine contrast between the English and the French systems, that I did not feel free to omit it. As the author himself provided so many valuable bibliographical and other notes, it has been deemed best not to introduce any further ones by the editor, but he cannot refrain from calling attention here to the fact that the chapters on church and state in Italy were, of course, written before the agreements between Italy and the Vatican of February 11, 1929, which became effective May 27, 1929, were entered into, the full text of which, together with estimates of them by friend and foe, may be found in *Current History* for July, 1929.[1]

It was deemed appropriate to issue this work in commemoration of the one hundred and fiftieth anniversary of the first constitutional establishment of religious liberty, an important American anniversary, largely overlooked amidst sesqui-centennials commemorating the Declaration of Independence and great military achievements. Publication of an English translation of Professor Luzzatti's important contribution to the history of religious liberty would appear to be a suitable method of commemorating this great landmark of civilization. This in turn has induced the editor to add some appropriate supplementary American chapters. As appears from these, the event commemorated may be chosen as any one of several important landmarks. First came the adoption by Virginia on June 12, 1776, of the first constitutional bill of rights ever enacted, and containing a religious liberty provision, which was supplemented by Jefferson's famous "Act to establish Religious Freedom" in Virginia, drafted in 1779, and enacted mainly through Madison's efforts in 1785. An alternative date is that of the adoption by New York State, on April 20, 1777, of her first constitution, which contained the first truly comprehensive religious liberty clause. These clauses served as models for the religious liberty provisions of the federal constitution, the prohibition of a religious test for office of Article VI, drafted in 1787, and the First Amendment, approved by Congress in 1789 and proclaimed in 1791.

Mr. Chief Justice Taft has very graciously consented to the inclusion herein of a fine address which he delivered in 1917 before the National Geographic Society on "The Progressive World Struggle of the Jews for Civil Equality," which ably supplements the section of the book entitled "The Defense of a People Persecuted in all the Millenniums of its History," as the latter deals almost exclusively with the persecution of the Jews in Russia (including Poland) and Roumania in the twentieth century. The *National Geographic Magazine*, which published this address as augmented in its July, 1919, issue, has also kindly authorized this republication of ex-President Taft's address.

The one hundred and fiftieth anniversary in question and its significance are treated in addresses appearing herein by Hon. Irving Lehman, Associate Judge of the Court of Appeals of New York, on "The 150th Anniversary of Constitutional Establishment of Religious Liberty," and by the writer hereof on "The Fathers of the Republic and Constitutional Establishment of Religious Liberty." The latter paper in its original form was presented in October, 1926, at a meeting of the *American Jewish Historical Society* in Philadelphia. The former was read at a meeting of the *Judaeans* held in New York City on April 24, 1927, to commemorate this anniversary, at which an address was delivered by the writer hereof on "American Influences on the Development of Religious Liberty in Europe," which has been consolidated with the Philadelphia paper above referred to.

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[1] Pp. 541-66.

The late Louis Marshall had kindly agreed to comply with my request to prepare for this volume a paper on "The Abrogation of the Russian-American Treaty of 1832 and the International Protection of Religious Minorities," movements in which he played such a leading rôle. Within a few weeks before his lamented death he was busy at this task, but he did not live to perform it. The editor has prepared the paper in question instead, in part, on the basis of Mr. Marshall's own writings, but has been enabled to set forth for the first time the inner history of the drafting of the minority treaties in 1919, and the names of Louis Marshall and his coworker in these important movements, the late Jacob H. Schiff, are also associated with this publication in the dedication.

We have been fortunate in securing the services of Prof. A. Arbib-Costa, Professor of Italian at the College of the City of New York, who has translated the work from the Italian, and assumed the task as a labor of love. He has succeeded in preserving the style of the author, being mindful of the warning contained in the Italian saying: "A translator is a traitor!"

Prefixed to this book is a charming sketch of "The Life and Work of Luigi Luzzatti" prepared by Dr. Dora Askowith of Hunter College, based upon her personal acquaintanceship with him, as well as close study of his career. She presents an informative and well-rounded picture of the man, but I cannot resist the temptation of quoting from an address delivered by Premier Benito Mussolini in the Italian Chamber of Deputies on March 30, 1927, in announcing the death of his distinguished predecessor. Great differences in their ideals and principles make the characterization all the more significant. The Italian premier said: [2]

> For greatness of talent, profundity of culture, disinterested devotion and public zeal, Professor Luzzatti was one of the most dominant and most representative figures. He was a wise and good man, closely bound up with Italian history of the last half century, having been the most striking representative figure of that period. Italy's high place among the nations in social legislation is due to Luzzatti's work. I frequently had cause during the last few years to appreciate the wisdom of Luzzatti's counsel in connection with measures which the Fascist government is carrying out through the coöperative organizations. It is necessary, in order to reëstablish the great spiritual equilibrium of the people, that such men exist. They are above the struggle of conflicting interests. They recall the eternal verities, without which the struggle of man against man would end in savage chaos and the downfall of all civilization.

MAX J. KOHLER.

December, 1929.

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[2] *New York Times*, March 31, 1927; *Jewish Daily Bulletin*, April 1, 1927.

THE LIFE AND WORK OF LUIGI LUZZATTI

BY

DR. DORA ASKOWITH

LUIGI LUZZATTI was born of Jewish parents at Venice, Italy, on the first of March, 1841. For over a period of three hundred and fifty years the Luzzatti family name graced the annals of Venetian history, particularly in the field of Hebraic literature.

At an early age, while at the Gymnase and Lycee at Venice, he began to devote himself to the study of literature, philosophy and natural science and to search into the depths of religious systems. Soon after he had taken his college degree at the University of Padua he was obliged to leave Venice, whence he had returned after leaving college. The Austrian government had brought proceedings against him for treason; the treason he was charged with consisted in having set on foot a mutual aid society among gondoliers!

In the year 1861 the scholar Elia Lattes, who had devoted his life to the study of philology, urged his young friend Luzzatti to pursue the same course. The reply of the latter strikes the keynote of the character of his activities. "I prefer," he wrote, "looking towards the future rather than the past, because men suffer; and while we reconstruct the dead world, living humanity dies. I know that all is a chain, and that the old, particularly the very old, has secrets and an intimate relation with the future; but I prefer to interlock myself with the last, rather than the first, link of the chain."

A few months later Luzzatti wrote to the same friend that he was studying how to abolish the monopoly of wealth through media other than those used by socialists. "Their destructive criticism, wherein they show the material evils of society," he pointed out, "is just and pitiful. But their remedies are ridiculous, powerless, false; it is necessary to look for good ones. They have revealed the pathological state of society; the science of political economy must find a universal remedy. Therefore I have devoted myself to economic studies." At the same time, he added, "This is not the only, and perhaps not even the chief, means; only the moral rule will have the virtue to restore the perturbed balance in the economic system. Only from heaven will the disinherited draw inexhaustible comforts."

In order to spread these ideas, Luzzatti, during the year 1862, gave a course of lectures, first in his own house and then in a public hall. He was the first in Italy to make the study of economics a popular science.

In Venice, near the house occupied by Luzzatti in his youth, there still lives an elderly gentleman who well recalls the echo of the young lecturer's sonorous voice on the silent, narrow street bordered by a canal.

While lecturing he was engaged at the same time in the preparation of a book, *The Diffusion of Credit and People's Banks*, which appeared in 1863. During this year he began to teach political economy in Milan and started his campaign in favor of the people's banks. Between 1863 and 1866 Luzzatti spent considerable time travelling through northern and central Italy, visiting even the smallest towns, preaching on the foundation of people's banks and coöperative societies. As the tall, stately figure, with long golden hair and blue eyes, with fiery enthusiasm animating his whole body, met the vast crowds of people who flocked to hear him, he was looked upon as were the apostles of old, and hailed as a prophet of the new era. As D'Annunzio recently pointed out, it was Luigi Luzzatti who spiritualized the power of gold.

A pioneer in coöperative activities in Italy, Luzzatti henceforth stamped his individuality as indelibly on the Italian movement as did Schulze-Delitzsch on the German and the Rochdale Pioneers on the English movements.

After the Venetian province was freed from Austria and annexed to the kingdom of Italy, Luzzatti was appointed, at the age of twenty-five, Professor of Constitutional Law at the University of Padua. At about that time he wrote a book on *Church and State in Belgium*, with applications to Italy.

The following year the young professor went to the Universal Exhibition of Paris to give expression to his social experiments. At the Society of Political Economy in Paris he startled the greatest economists of France and other countries in Europe by the exposition of his economic and social conceptions. From that same year date all his great foreign friendships.

In 1869, before having attained the age of a member of Parliament, he accepted the office of Vice-Minister in the cabinet of Minghetti. In this capacity Luzzatti did a great deal in behalf of the working classes. He established a "Provident and Labor Council," which was the forerunner of similar councils in other countries, and laid the foundation of professional and technical instruction and of agricultural training.

He gave new life to manufacturing, in consequence of a state inquiry into the conditions of industry which he instituted. Though theoretically a free trader he was largely responsible for creating the Italian protective system, as infant Italian industries had to be aided.

By this time he had already gained great popularity and was proclaimed the political candidate for different Venetian colleges. From this period date the first commercial treaties and monetary agreements he drafted, and his first coöperation in the restoration of Italian finance and political economy.

When "the Left" gained control of the government Luzzatti acted as vice-chief of the opposing party as long as Minghetti and Sella lived, and as one of the leaders after their deaths.

The years between 1874 and 1891 mark Luzzatti's greatest parliamentary and diplomatic activity. Some of his speeches delivered in the House of Parliament give expression to a new trend in state finance and the economy of the nation.

Luzzatti's influence was also felt in countries other than his own. In 1880, when a wind of reaction blew over Germany, and the government became unfriendly toward the coöperative movement, he sent an address bearing upon the subject to the crown prince (afterwards Frederick III). As a result the latter contributed in tempering the opposition of the government. At the International Congress of Menton, Luzzatti taught his friends of France how to establish people's banks.

In 1891 Luzzatti became Minister of the Treasury, an office which he held at four other periods (1896, 1903, 1906, 1920). The restoration of the finances and of circulation made him renowned. He saved his country from bankruptcy and inaugurated a system which did not permit the incurring of debts for the sake of budget services. He saved the Bank of Naples, and converted the debts of the Sicilian and Sardinian municipalities, thus saving them from failure. He laid the foundation for converting and relieving local debts, promoted the Old Age Pension system and effected the conversion of the Italian bonds, an achievement for which Luzzatti was eventually appointed Minister of State.

The years 1907 to 1909 were devoted by him particularly to scientific studies, to the teaching of constitutional law at the University of Rome and to the preparation of a book which appeared in Italian in 1909, entitled *Liberty of Conscience and Science*, which has been translated into French, German, and Japanese. In this treatise Luzzatti endeavored to show how the principle of religious liberty, upon which he based all his ideas of constitutional law, found expression in all countries from ancient to modern times. The subject of this study later found a more elaborate exposition in the crowning work of his career, *God in Freedom*, an English translation of which appears for the first time in this volume. This work constitutes the second volume of the edition of his collected writings.

Luzzatti's conceptions of faith and religious liberty began to be unfolded to me when first I met him in 1925 in Rome, in a room characterized at that time by Eugene Baie of Belgium as "a battlefield of books and papers." As I listened to him, his stately figure, his snow-white beard and hair, strikingly set off by the black skull cap he wore, his gentle expression and whole bearing reminded me of a patriarch of old. I soon began to realize that his work partook of the nature of a holy mission that was based upon a firm trust in human goodness.

In subsequent talks with Luzzatti I learnt more of the spiritual conflicts that beset his mind, as he regularly attended services in his boyhood, in the synagogue of the Levantine rite in the Ghetto in Venice, where an elderly man recently pointed out to Luzzatti's secretary the exact place where the youth was wont to sit.

At the age of sixteen he began to doubt, and from that time on he was no longer a Jew in the external sense, believing in the ritualistic faith of his fathers. He never, formally, left the synagogue; but internally he was independent and universal. In later life Christianism interested him continually more and more, particularly the Unitarian church of Channing. But he would never become a Christian. He always spoke of himself as a Jew. His soul yearned to adore God freely according to the feelings of his mind. The echo of Isaiah's words, which he probably heard in the synagogue when a boy, never faded away.

The religious feeling remained the center of his life; in these great truths he continued to believe. In 1878 he wrote: "What a mystery life is in all its gay and tremendous phases; and how useless it would be without faith in God!" He changed, however, on the point of external worship. Hence his great feeling for religious liberty and the defence of the oppressed. When a boy, a school fellow mocked him for being a Jew; as they were walking along a stream he threw the fellow into the water. But soon he saw that the latter could not swim, and so he sprang into the water too and saved him.

In the words of a contemporary Italian, analyzing the faith of the departed Luzzatti, the latter was

> the glorifier of idealism, of faith—of all faiths; of martyrdom, of all martyrdoms. He belonged to the Semitic stock and had within him the breath of those souls. He did not fall like the priest Vanare, nor did he kill himself like the Japanese Araki, but he too has given to an ideal the whole of a long and noble life. He believed and lived in conformity with his belief. He has been the poet of every greatness, the diffuser and the eloquent exalter of every toleration, of every type of liberty of conscience and science. His two great loves were the belief in a world beyond and his patriotic fervor.
>
> He felt alike the greatness of St. Francis and of Buddha, he throbbed alike for the persecution of the Armenians and of his brethren, the Jews. He has been a good priest and a good soldier; in his blue eyes he had the sure vision of a survival; in grave moments he often might have said, "God may choose me if He wants."

Such was Luzzatti's philosophy of religion and faith, a philosophy which permeated every phase of his life and found a like expression in his political activities.

> He never accomplished little treasons in order to use his power. He remained faithful to his masters. He knew he had rendered services to his country, but he never ignored the services rendered by others before or after him. When he descended or when by the will

> of others he had to descend from the seat of a minister he never stepped disdainfully aside, but helped those who had plotted against him. When recalled he readily gave again the contribution of his knowledge and the charm of his person. His idols were still those of his youth—Minghetti, Sella, Gladstone. Common men can for a moment have compared him to a little organ singing always the same songs; honest men recognized in him a constancy, a continuity, which gave evidence of the firmness of his convictions, of the perpetuity of his affections.

In 1909 Luzzatti became Minister of Agriculture, Industry and Commerce. He reorganized the bureau and the council of statistics. He continued, as he had since 1869, to devote himself to forestation problems. Questions of drainage, irrigation, the reform of professional schools and the solving of the problem of the small property owners, claimed the most careful study on the part of the minister.

Italy owes a large number of social reforms to the efforts of Luzzatti. He originated the law for compulsory accident insurance, the bill for saving of money, every measure for emigration, the people's dwellings, and nearly all existing legislation on coöperation, including the first university of coöperation.

In 1910 Luzzatti was Premier and Home Secretary. In this capacity he brought about many important changes. He improved the system of elementary education. He fought against malaria and inaugurated many hygienic measures. He extended the electoral vote, excluding only illiterates, proposed a reform of the Senate, tried to apply the principle of decentralization in the state administration and developed the budget of the army and navy.

In 1920 Nitti attempted to stem the tide then rapidly rising against the old political régime by appointing Luzzatti Vice-President of the Council and Minister of the Treasury, but it was too late for his economic remedies, and the return of Giolitti and the Communist invasion of the industrial plants brought about the crisis which found relief in Fascismo. In 1921 Luzzatti became a senator. He had been a member of the Chamber of Deputies from 1870 to 1921.

When dark clouds hung over Italy and thousands of exiles wandered through the country in deep desolation, the great patriot opened his warm heart to the sorrowful human flock. He accepted the difficult task of being their High Commissary. He found them temporary homes, soothed their wants and dried their tears. Already during the war days he had founded the national institution for orphans of the dead peasant soldiers, an institution which has for one of its main functions the training of future tillers of the soil.

This love for the working classes grew with Luzzatti during the long years devoted to furthering the welfare of his country. He was no socialist, but as he himself put it, "a friend of every human being." In his country he was regarded as the purest and worthiest of citizens, a citizen in the classic sense; a sage who won the love of his countrymen.

In foreign lands the high esteem in which he was held was shown by the honors conferred upon him. He was given the Grand Cross of the French Legion of Honor and the Grand Cross of the Order of Leopold of Belgium. He had been made a Knight of Savoia's Order and received the Grand Cross of Saint Mauritus and Saint Lazarus.

To Luzzatti it did not matter from which group one comes. Freedom was his cry, and sympathy with all fellow men who were feeling after God.

> He had studied all and knew all. He could pleasantly converse with the mighty and with little children. He was not out of place among the scholars, nor among simple folk, nor with crowned kings, nor with women; it was impossible to separate him and put him among the politicians or among philosophers, among the moralists or the men of letters, because it was impossible to classify him, to shut him in.

Luzzatti attached great values to human goodness. Like Erasmus he pointed out that man is inherently good, a principle upon which he based his philosophy of life. In a letter to me the keen anatomist of mankind wrote, "The faith in human goodness unites us; it is a link that does not unite only on earth!"

The great reverence that all Italy paid to Luzzatti during his lifetime paralleled that given to Gladstone in England. Both won the same place in the hearts of their countrymen. There was much in common between the English and the Italian helmsman of the ship of state, and each in his own country justly earned the title of "The Grand Old Man."

Like Gladstone, Luzzatti possessed great knowledge, financial skill and an eloquence which in his earlier days gained for the latter the distinction of being the greatest orator in Parliament. Like Gladstone, Luzzatti divided his time between the performance of his political duties and study. As we are told, Gladstone had as constant companions Homer, Dante and St. Augustine, so Luzzatti in a study that was a labyrinth of books, statues and portraits, delved into the deepest recesses of the world's storehouse of thought. And as if in answer to Plato's plea, centuries ago, Luzzatti devoted a ripe old age to a summation and philosophical interpretation of years of contemplation and action, work which found expression in his last writings, *Great Italians, Great Sacrifices for the Fatherland*, published in 1924, and the *Memoirs*, not quite completed at the time of his death.

Like Gladstone, Luzzatti sought national salvation and became the sheltering spirit of his country. To both, as expressed in the words of the former, the main principle for national salvation is embodied in the exemplification of the belief, that "the duties of governors are strictly and peculiarly religious, and that legislatures, like individuals, are bound to carry throughout their acts the spirit of the high truths they have acknowledged." As in the case of Gladstone, so for Luzzatti in the pursuance of love of country and performance of duty, "no dangers were too threatening for him to face, no obstacles too formidable, no tasks too laborious, no heights too steep."

Luzzatti, like Gladstone, was the great champion of all oppressed peoples. The former had an even greater opportunity, and perhaps did more for the protection of persecuted peoples throughout the world, by deed and especially through his writings, than the latter. I recall Luzzatti telling me about Gladstone's fiery indignation against the "Bulgarian atrocities" in the autumn of 1875 and his denunciation of the Turks who were held responsible for the massacres and outrages; how after the Armenian massacres of 1894 and 1895 the English statesman at public meetings and in open letters decried "the unspeakable Turk." "Yes," Luzzatti added, "Gladstone left to me the protection of the Armenians." The former's concern for these ill-fated people was maintained to the end, as is evidenced, for instance, by the colony of Armenian refugees that he established in Southern Italy. The welfare of this little group was the subject of his anxious inquiry the day before he passed to the Great Beyond.

Luzzatti's deep interest in oppressed peoples found expression in his work in behalf of Jews throughout the world. As early as 1638 a member of Luzzatti's family, Simeone, wrote an apology for the Jews, in which he endeavored to show to the government and the Venetian republic that for the sake of justice and interest alike, the Jews must be tolerated and protected. The establishment in Palestine of a Jewish national home, where the oppressed Jews throughout the world might find a haven of protection, met with great approval on the part of this Italian statesman. He gave considerable time to a study of the disabilities of the Jews in various countries. The fifth part of the book, *God in Freedom*, deals with the persecutions of the Jews in Roumania and Poland and with his endeavors to help them.

Like Gladstone, Luzzatti served as peacemaker between foreign powers, including the latter's renewal of the commercial relations between France and Italy that had been broken since 1888. Shortly after the healing of the breach France appointed Luzzatti a member of her "Institute de France," as a successor to Gladstone, during whose lifetime the Italian statesman laid the foundations of a career that won for him recognition abroad as well as at home. Similarity of ideals and fields of work had drawn the two men together, and cemented a bond of friendship that was severed only with the passing of the great Englishman.

Though Luzzatti was not holding the premiership or a cabinet position, he continued until his last days to be, with the exception of Mussolini, the outstanding figure in the political life of Italy. Hardly a measure was taken up for discussion in Parliament, particularly in the field of finance and political economy—in which Luzzatti was the recognized authority in

Italy and even in many other countries—without first consulting this Italian statesman. Almost daily, legislators could be seen seeking the sancta sanctorum of Luzzatti's study for counsel, and despite his advanced years his forceful voice was occasionally heard in the Senate chamber. His very signature seemed to work as a magic password; during the year that I was in Italy it worked wonders in gaining admission to sessions of the Senate, the Chamber of Deputies, celebrations of the King's Jubilee and other public functions in Rome and other Italian cities. For who, in all Italy, did not love and revere Luigi Luzzatti, and would not seek to fulfill his every wish?

Immersed though Luzzatti was in his work he spent considerable time with his family, his devoted wife, and his children, four sons and two daughters.

His mode of life finds expression in an incident that has been told regarding Luzzatti. The king once sent to the latter, through a friend, a gift—a wild goat hunted in a royal preserve. Luzzatti sent the goat back to their mutual friend, together with a little note bearing the following succinct verses: "One woman, many books, little wine, no game at all."

Among his publications, in addition to those hereinbefore mentioned, are the following: *La Diffusion du Crédit et les Banques populaires*, 1863; *Pro Italico nomine;* Reports on Popular Banks instituted by him in Italy; a book on small property, 1913; *Science e patria*, 1916; *Sul filosofo dalmata Giorgio Politeo*, 1919.

After a long period of waning physical strength, though with unimpaired mental activity, Luigi Luzzatti, the "Grand Old Man of Italy," died at his home on Via Vittorio Veneto, in Rome, on the twenty-ninth day of March, 1927.

In the words of an Italian coworker, though Luzzatti

> died old, it seemed to us that a young man departed. Because he has been really young to the last days, for he had purity of heart and nobility of thought. A great old man and a boy. An economist and a poet. We were children, and persons already talked of him as of a sage. The others were more skilful, more sly, stronger . . . but he was the best. Therefore it seems to us as if a grandfather had died, a grandfather of us all, a grandfather whose virtuous examples and candid words alone are remembered.

His loss was keenly felt throughout the country by all classes of society, and he was given a state funeral. No one in Italy had done as much for the poor people as Luzzatti. Because with the impulse given to industrial Italy he gave them work; with the treaties of commerce he gave them higher wages; with the people's banks, credit; with coöperative societies and other institutions he provided for their illness and old age; with people's houses, their abode. His life was coherent to doctrine, and practice to preaching. He was at the same time a theoretical and a practical man, "a man of ciphers and a prophet, because he held his feet on earth even while his eyes were turned towards Heaven." He was Italy's greatest economist, because he was no economist for economy's sake, but for a pure social end. In his life of eighty-six years, during which he had bridged the period of Italian reconstruction by political parties, from the Union of the Third Italy to Fascismo, Luzzatti had been his country's guiding spirit.

Two factors contributed to win for Luzzatti his position. Throughout his life he was a peacemaker, a peacemaker among the different social classes through his establishment of worthy institutions; a political peacemaker with his commercial treaties, twenty-four of which are to his credit; monetary agreements, labor treaties between different States and his proposal of monetary peace; and a religious peacemaker in consequence of his deep studies on liberty of conscience. The second factor was the value he attached to human goodness. He had faith in and a sympathetic understanding of all mankind, and to the furthering of their welfare he devoted his life.

AUTHOR'S PREFACE

In the second half of the last century, science and philosophy, reflecting the marvelous progress of the period, kept the mind of the studious in a state of exaltation. It seemed as if the ancient mysteries of life and of death were at last to be penetrated, and that men, freed from the bitter doubts which had urged them to kneel before invisible deities, were almost prepared to abolish them. And while the churches, fearing the desertion of the faithful, were always applying the curb and invoking the help of governments—even those governments that were objectionable to their peoples—the wonderful applications of natural science illuminated those states that were freer, and led them on to glorious and hitherto unreached economic goals. This in turn, fostered the spread of the materialistic spirit and rendered the divergences between capital and labor more and more embittered.

But a more attentive examination of the facts has punctured this apparent triumph of positivism. Toward the end of the nineteenth century and the beginning of the twentieth, thinkers had to acknowledge that the incomparable victories of science and its applications, so beneficial to humanity, did nothing else, as a great French philosopher said it would, than "cause our ignorance to emerge from a higher source." The sphere of human knowledge edged its way further towards the impenetrable shadows; it grew more amplified, but the unknown persisted in rising before us, perplexing, and full of riddles as before. The results of the intellectual process continued to render sharper the anguish springing from our impotence to reveal the mystery of life and death.

The crucial question is, Are we any better off through our multiform knowledge and greater power? Henry Thomas Buckle, for almost thirty years in the last century, was successful in convincing philosophers, writers and investigators of nature that the focal point of civilization lies in the progress of science, and not in that of morality, since morality is incapable of new evolutions. This view, set forth with brilliant talent, seemed to me even more dangerous than the positivism of Auguste Comte, and I had felt obliged to refute him with the respect due to his learning and character, in the Institute of Sciences, Letters and Arts of Venice in 1876.

But, since the formidable objections raised by Buckle and Comte arise anew in different forms—and since, on the other hand, science is, has been, and always will be incapable of suppressing the palpitations of faith and the miraculous revelations of kindness—I make bold to recommend the argument of this volume to those who are sensible of the fact that science without faith would be a light without flame, while faith without science would be a flame without light.

That knowledge which consents to no limits once more feels its present limitations in the face of the divine mysteries; it perceives that it is not sufficient in itself for the task of improving humanity and effecting the moral evolution which has lagged for some time in various particulars, or at any rate has not developed at a pace commensurate with our progress in the application of the material sciences. It is everywhere noticed that the growth of the empire of man over himself does not keep step with the growth of the empire of man over nature. Thus the need is rekindled in our souls of a faith no longer imposed by questionable laws, or by the complicity of states and churches, but proceeding from the eternal longing toward those heights of the unknown, lighted up by immortal hope. Dante thus paraphrased St. Paul's lofty idea (*Est autem fides sperandum substancia, rerum argumentum non parentum*):

Fede e' sustanzia di cose sperate,
Ed argomento delle non parventi;
E questa pare a me sua quititate.[1]

Even philosophy, a great epilogue rather than a creation, returns upon itself to illustrate faith, to unite with it, or, still confuting it, faces it and spreads it abroad. In its turn, faith tends to liberate itself from the chains that keep it tied to governments, with their laws of protection and of tolerance. It longs to bring the practice of religion back to the genuine and free expression of the believers, nurtured in associations protected only by very general civil sanctions. Gradually the fatal confusion of state with religion and of religion with state is corrected and disappears. The hegemonies and celestial servitude vanish; terrible partnerships which for centuries harmed civilization dissolve in the progress of constitutional law, true spokesman of two great liberations: that of the state from the church and that of the church from the state.

In this volume, I shall discuss the essential aspects of these problems of liberation, keeping in view their connection with the progress of human kindness and of public law, and observing always a profound respect both for the office of the state and for the mission of the church.

I know of no more barbarous history (and it has horrified me since my youth) than that of religious persecutions. They are more cruel and iniquitous than the oppressions of despotic governments or political factions, or the wrongs which attend atrocious revolutions. Moreover, in the persecutions carried on in the name of God, cruelty does not engender remorse; it appears rather as meritorious action which will find its reward in heaven. No historical episode better illustrates this assertion than the following: The French Huguenots of Florida were hanged by the

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[1] Faith is the substance of things we hope for
And evidence of those that are not seen,
And this appears to me its quiddity. (Longfellow's translation.)

Spaniards with this inscription: *Not because French, but because heretics.* Soon an expedition of French Gascons inflicted the same treatment upon the Spaniards, *not because they were Spaniards but because they were murderers.* Truly both serve as horrible reminders of darker times, but the plea in justification by the Gascons is less shocking than that of the Spaniards. We recall too that when the papal envoy, in the darkness of the Middle Ages, after the sentence of the Albigenses to be put to the sword, was asked by the leader of the crusaders how the guilty could be distinguished from the innocent, he answered: "Kill them all, God will recognize his own." [2] That was the fashion in which those murderers could call themselves, and believe themselves to be, missionaries of God!

I have concluded to reproduce in this volume—notwithstanding hesitation arising from my profound respect for one of the greatest living thinkers, Benedetto Croce—my side of a controversy on this subject which I had with him.[3] In syllogisms admirable for their subtlety he absolves the persecutors, as if they were, together with the persecuted, necessary instruments in the evolution of history and of civilization. But if history is to be any teaching guide at all, those who read it and meditate over it must accept its conclusions and frankly express their preferences. For example, as between the Duke of Alba, who slaughtered them, declaring them to be heretics, and the Protestants, who sought in the New World an inviolable asylum for religious freedom, human conscience, meditating over these terrible episodes, does not hesitate to rank itself on the side of the persecuted against the persecutors. And the descendants of the persecutors sigh, publicly or in secret, perhaps recognizing that those crimes should have been avoided—that faith is harmed when it is maintained in this fashion by terror and not by moral suasion. History finds connections between all events but does not absolve, nor were the spiritual tyrants necessary to civilization. On the contrary, the martyrs were!

And how dangerous is the distinction between state religions and tolerated creeds! As far back as 1848 Camillo Cavour and the Piedmontese members of Parliament labored to constitute and guard civil and political equality in the little kingdom which was to be the savior of Italy. From then until the publication of the latest penal code, Cavour's disciples followed the luminous path traced by the great statesman. They kept to it in spite of the difficulty involved in elaborating important and intricate laws, which is peculiar to us Italians, because in Rome the head of Catholicism and the head of a free and independent state must live together—luckily in a state of tranquil independence. The "Law of Guarantees" nevertheless could solve this vexing problem. And if, as notable liberals contend, there had not been inserted after the fourteenth and fifteenth articles (admirable for high religious sentiment) the sixteenth article, which maintains the *Exequatur* and the *Regio Placet*, the existing legislation on the relations between the state and the church would have been more adequate. But vain and excessive fear abounded that the first and second articles of the Law of Guarantees would give the Pope also a kind of state power in religious matters, not only those affecting Catholics but even those involving other faiths, or that they would restrict the privilege of free examination which is one of the guarantees of our public law. So the framers of that law wished to add immediately after the first and second articles, which confer upon the Pope and upon his action both in Italy and in the world, a new form of spiritual immunity, these words, also new in such a law: *Discussion of religious matters is absolutely free.* This declaration—so it was objected by captious critics and intolerant persons—was out of place, as it tended to upset the character of the Law of Guarantees. It was in place, we answered, and for this reason: Italy, while deeply respecting the religion of the fathers, must needs safeguard that very law in the service of the Pontiff from the suspicion that the free scrutiny of religious and philosophical problems, without which the nations would be deprived of a part of their interior light, could be partly or fully prevented by Rome. True sincerity of faith depends upon freedom of discussion and even of contradiction.

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[2] The very scholarly author of the *History of the Albigenses* observes that even if this famous order, attributed by a Cistercian monk to the papal envoy Armand Amalric, was, like so many other historical expressions, made up after the event, the crusaders at any rate proceeded exactly as if it had been issued. But other historical sayings which stand out like letters of fire from ancient texts attest anew the actual issuance of the inexorable command. In the *Chanson de la Croisade* and in the *Chronique*, Pierre de Vaux Cernay, a contemporary author, writes: "With an extreme joy our pilgrims burned a quantity of heretics." And the Bishop of Comminges, blessing the army of the crusaders, exclaimed: "Go in the name of Jesus Christ! I shall be your witness and I guarantee to you that on the Day of Judgment all those who will die in this glorious fight will obtain the eternal reward of the glory of the martyrs without passing through purgatory."

[3] See Appendix I, where my reply to Croce, delivered at the Third Congress of the Italian Philosophical Society, will be found.

But through a royal decree we have to-day befogged one of those essential points which the character of our public law must retain. The first article of the Italian constitution affirms the Roman Catholic religion to be the religion of the state, and decrees that other faiths then existing in Italy (the Protestant Waldensian and the Jewish) were to be tolerated in conformity with the law. This article remained intact, Cavour thought, in consequence of a just consideration for the church on the part of an overwhelming majority of Italians. But, through the agency of previous and later laws, the status of the non-Catholic was changed in substantial respects along with the absolute political and civil equality of all citizens, whatever might be their religious creed. In the penal code in force previously to that of Zanardelli, the defense of the creeds against their assailants was summed up in two articles, one of which was inspired by the first article of the Italian constitution. Just as Giuseppe Zanardelli had asked me to prepare for the commercial code the provisions regulating coöperative associations, so he wished to consult me also on this very delicate point of the penal code. And in the course of our calm and not unfruitful conversations, that enlightened minister of justice settled upon the provision expressed in the penal code now in force and in its accompanying interpretation. Briefly it provides for universal equality of creeds with profound respect for the Catholic faith too, as well as for the other creeds permitted in the state, but the word "permitted" is not to be interpreted in the sense of a previous authorization but as accepted in principle in the state. This interpretation had thus been consecrated by jurisprudence and by national custom, arising from the respect in which complete freedom and equality were held, without any diminution of a fair and necessary reverence for the Catholic faith. It may be urged, however, that these considerations were surely forgotten in the last measures relating to the press. There is a return to a spirit of partiality; only possible offenses against the Catholic religion are mentioned and silence maintained about other creeds. If the penal code were not in force both in letter and spirit, it might even appear as if offenses on the part of the public press against other forms of religion than the Catholic could go unpunished. These incidental diversities of treatment as between Catholic and non-Catholic, surely made without premeditation yet capable of letting loose again the demon of intolerance, remind me of a saying of Macaulay, one of the greatest thinkers of the past century: "The devil of religious intolerance is more easily evoked than dismissed."

But since such discrimination surely cannot be the intention of the Italian government, we are prompted to infer how scarce and insufficient even in Italy must be the meditative study of these profound spiritual problems, and how obviously it is the duty of this work to treat also of them in view of their intrinsic importance.

Meanwhile—and it grieves me exceedingly to recognize it—if the form it takes is changed, the substance of religious persecution remains. While it seemed before the Great War to be on its way to a bad end (not that it was extinguished in Russia, in Roumania and in Germany), what all forms of religion in Russia are undergoing now, the creeds of minorities in other countries of Europe and the consequent incitation of intolerant minds, causes grave doubts to arise about the solution of these difficult problems of religion which sadden the minds of sober thinkers. It will suffice to mention that even in the United States, which toward the end of the eighteenth century gave the world an example not only of political liberty but of the constitutional principle loyally applied to the autonomy of the church, where the freedom of every opinion was, and is, solemnly guaranteed by the law, the spirit of intolerance has never been entirely extinguished. One great American expressed his grave doubts on the subject in the first half of the nineteenth century, doubts which were not without some basis then and have never appeared to be unfounded during the last hundred years. In that country where, it will be well to repeat, intolerance never was sanctioned by legislation, it has nevertheless been found hidden at times

> under the disguise of religious zeal. An espionage of bigotry may close the lips and discourage the heart with the same efficacy as an armed police. Concerted opinion, organized into sects and led by

> the clergy, the sects skilfully educated to utter the same cry, to cover with reproach any person whose opinion is different from theirs, to suffocate the free expression of an idea with the denunciation of heresy, is as dangerous and paralyzing as the Inquisition. All this serves the ministers of a creed just as efficiently as the sword.

Moreover, the individual in the United States, more than in the rest of the world, is inclined to enroll himself in associations and in political parties, to immerse himself in group opinion, to take as his own the ideas of his own political party or religious sect. The propagation of an idea thus organized and compact is surely more effective, but individuality, the free desire of the spirit, every independent vibration of the soul, are sacrificed. Indeed to-day intolerance in the great American republic has assumed far more concrete and aggressive forms. The rehabilitation of the secret society called the Ku Klux Klan, which appears formidable in numbers and influence in certain parts of the Union, is known to all. This association attempts to combat with equal pertinacity the Catholics, the Jews and the Negroes; it persecutes them wherever it can, without regard to constitutional restraints. It seems to do all this without any fear that the men of the first constitutional conventions, truly great because truly good, may rise from their graves to ask an accounting for such horrible violations of those fundamental covenants which were at the time of their adoption the admiration of Europe and the pillars of the science of public law. But it is custom which grows worse everywhere, rather than law. In Roumania, for instance, where legislation was enacted which finally decreed religious freedom with curious reservations, strange unions are being formed in scientific centers and in the universities of teachers and students intended to limit the number of Jews in institutions of higher education. In Poland, in Hungary, in Bavaria, in Austria, and with greater or less intensity in other countries, we witness these strange efforts to prevent or restrict to privileged categories that pursuit of science which ought to be universal. This constitutes the greatest outrage to which human knowledge and legitimate religious aspirations can be subjected.

The writer is happy in the recollection that from his early youth he set himself to defend religious freedom, not in the name of Jehovah but in the name of that God who is the Father of all men. And such freedom—the subject to be dealt with in the present work—I recommend to the unbelievers more than to the faithful. I am defending it now as I have defended it in the past, not without some results.

Religious persecutions desecrate the true faith of the nations; freedom purifies and uplifts it. And it is Asia that proves this most signally! From Asia have come the gods able to perpetuate themselves, the religions that have lived through thousands of years and spread over the world and redeemed it. But the religions of Asia—especially those two great creeds which still possess and move the human heart—Christianity and Buddhism—are the religions which more than all others are ringed about by the halo of their doctrine and by the consecration of time. Are we not then justified in marveling over the way that the history and the science of religion turn in our days with particular interest to Buddhism and Christianity, and to the warm and earnest controversies that have arisen over which is the superior of the other in doctrine, and especially if this grave issue has challenged the thought of dispassionate thinkers? Is the moral doctrine of Christianity superior to that of Buddhism? Historians, philosophers and philologists have for centuries occupied themselves with this formidable inquiry. Where Buddhism does not spread to other continents nor try to conquer Europe, Christianity finds proselytes if necessary at a heavy sacrifice and at the cost of martyrs in the centers where Brahma, Buddha and Confucius have ruled, despairing not of converting the hearts of alien men to the doctrine of Christ despite the greatest difficulties. We know that the choice of religions is either a matter of custom, or of reverence for one's ancestors, or of conformity to national characteristics and national pride. The question that we have mentioned, however, remains unanswered, and it deserves the most serious consideration that science can give to it: Which of the two faiths, both so pregnant with high idealism, has the purest, that is to say the holiest, morality? Which is the better able to redeem human creatures, and lift them aloft? In the rivalry between Christ and Buddha for the possession of souls athirst with longing for the greatest sacrifices and the costliest virtues, which of these two divine mysticisms will triumph?

Those who extol Buddhism esteem it to be the more sublime doctrine, because it makes no concessions to human frailties but demands an austere perfection of spirit. But they evidently forget that on the other side of its summit, reached by its quick ascent, there is a descent to the depths of the idols of Ceylon!

Christianity, on the other hand, gives human possibilities full consideration. It speaks an animating and consoling language which can be understood by everybody, a language full of forgiving and celestial kindness which stirs the heart, exalts it and improves it. When its summit is reached by degrees through the refining of the soul, through an invincible ardor to continue the ascent after the first rushes are over, there is no going back. Human frailty is conquered at its root, and slipping is no longer possible.

This controversy, important for the religious and philosophical issues which it involves, for the noble passions which it arouses and for the researches of all kinds which it stimulates, has come also to Italy. A man of well merited distinction in science, a learned and impartial investigator of the languages, the customs and the religious practices of India, has fallen in love with Buddhism, not through a flash of intuition, but after deep research, the value of which the most competent minds of Europe and of Asia have spontaneously acknowledged. I am speaking of Professor Carlo Formichi; nothing which I might add in his praise could enhance his high reputation.

Professor Formichi read in 1913 at a meeting of the Philosophical Association of Rome a few unforgettable pages on the moral superiority of Buddhist over Christian doctrine. Without being expressly depreciated, Christian doctrines came out second in Professor Formichi's paper. Buddha took away some of Christ's splendor. The chants of morality sung in the Ganges valley outranked, according to Professor Formichi, as beatitudes of an intrinsic goodness, those that Jerusalem had heard.

At the time it seemed necessary to me—and it was perhaps an excessive boldness on my part—to contradict the speaker. My boldness was not inspired by any desire to begin a vain discussion, nor did it imply a lack of consideration on my part for a distinguished scholar and thinker, toward whom indeed my feelings were those of affection as well as esteem. I felt sure, however, that the Sermon on the Mount rightly stood higher than all the discourses of Buddha. Besides, it seemed clear to me that the Buddhistic principle led to an *inert goodness*, while the essence of the evangelical principle is *goodness in action*. Buddhism in its highest manifestations is a form of self-sacrifice which creates a kind of supernatural egoism, whereas sacrifice and martyrdom in Christianity are rendered fruitful and productive of a righteousness possessing the contagion, as it were, of goodness. Although adequate preparation was impossible and my defects of knowledge stood out against my friend's indisputable learning, nevertheless I made bold to beg him and the distinguished audience present to permit me to answer him on the spot.

In this volume my readers will find, not the exact reproduction but an exact compendium of that debate which had an unexpected aftermath in Italy and elsewhere. Both Catholic and Protestant publications took part in the discussion which followed; often calmly, sometimes passionately. For a time I had the good fortune to be considered the warmest defender of Christianity. The controversy between Professor Formichi and myself—sincere as discussion must be between those who reason about heaven without aims of earthly gain—is still open, the religious idealism of both contestants having strengthened in both the force of previous conviction. No one can depict virtue as the Gospels do! Buddha preached the great doctrine of sacrifice, of forgiveness, and of love some centuries earlier than Christ, but in words which leave us thoughtful and cold, while Jesus' way of expressing these doctrines brings tears to our eyes, so profoundly do they move our hearts. And as I said at the meeting of the Philosophical Society, the holy words are changed in the Gospels into eternal formulas, renewing in future generations the effect experienced by those who had the incomparable joy of hearing them.

Buddha and Christ, the two great Redeemers, teach us to love even those who hate us. Buddha says: "Let every one dominate the anger of others by absence of anger, evil by good, a liar by truth. Hatred does not cease with hatred, hatred ceases only with love. This is the ancient rule." But Christ, without copying the Hindu apostle even though he was born later (because these seeds of morality belong neither to the East nor to the

West, but are an inheritance of humanity found in the hearts of men under every sky), expresses himself thus:

> Ye have heard that it has been said: Thou shalt love thy neighbor, and hate thine enemy. But I say unto you: Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which use you despitefully, and persecute you. That ye may be the children of our Father which is in heaven, for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust. For if ye love them which love you, what reward have ye? do not even the publicans the same? And if ye salute your brethren only, what do ye more than others? do not even the publicans so? Be ye therefore perfect, even as your Father which is in heaven is perfect.

I believe that if the great Asiatic reformer were to return to earth, he would concede superiority to the gospel text and would substitute it for his own, were it to fall to his new lot to think of God as an individual personality eternally presiding over the destinies of men.

Part of this volume is dedicated to aiding the return to the cult of a saint who in his sublime poverty distributed spiritual wealth to all the poor, the afflicted and the wicked. The principal credit for the return to St. Francis toward the end of the nineteenth century among the laymen, which extended beyond the boundaries of Catholicism, belongs to Sabatier, a mild sort of Protestant. To be sure it followed the resurrection of the cult of St. Francis in the Catholic church, and its consecration anew with rites and with works of art of that perfect and greatest example of kindness. The books of Paul Sabatier on the Saint of Assisi, which have been translated into many languages, have produced an extraordinary moral effect. One may affirm without exaggeration that they have been the inspiration for a whole lay literature on St. Francis, written either to combat them or to add to them, a literature full of virile idealism which now has its place beside the ecclesiastical works. And I once said jestingly in Assisi that the Saint of Poverty had enriched Sabatier and the other distinguished scholars who wrote about him!

But why, we wondered, did the desire to draw inspiration from the little Poor One of Assisi arise, or rather become more acute, in the nineteenth century, the century of marvelous applications of science and of the production of formidable wealth very generally distributed among every rank of society? Is not this moral phenomenon, which appears so strange in itself, most convincing proof that the progress of kindness has not kept pace with the triumphs of science? Does it not show that in spite of the materialism which has spread among the poor as well as among the rich, there is felt a strong need—a new thirst—for that Franciscan idealism which is intent to reproduce, to develop and to recommend with new arguments the gospel idealism, in order to console this mental restlessness and to transmute its corruption into redemption? And this fascination of the seraphic is felt not only by Catholics but also by Protestants, who will not admit in their churches the image of the Saint, and even by stoics who do not recognize the need of a positive faith. The spontaneous revival of the Franciscan cult is the most evident proof of our longing for an ideal of simple kindness to oppose to all the forms of human greed, to all the false powers, to all the proud greatnesses, to the self-satisfied egotisms which believe in their power to dominate heaven and earth. This protest, this return of the Saint of Assisi through a spontaneous reaction to his spirit of kindness, is one of the greatest hopes of our time, with its cruel wars and its greedy peace which have revived the saddest days of history. A divine wisdom, a forgiving kindness ought to regulate the destinies of the restless peoples who cannot be saved with the light of science only but need also the effulgence of celestial charity.

Perhaps it is heaven that has chosen again, as it did in the Dark Ages, its favorite saint to redeem humanity from sins greater than those of the thirteenth century. "*Vade et repara*," said God one day, according to the legend, to the seraphic father, who hastened to reconstruct the falling churches of his beloved Umbria. "*Vade et repara*," a voice from on high perhaps repeats to-day to a restless humanity that there may be an end to social upheavals, to futile excursions of intellect, to disturbance of soul and anguish of heart. To-day a whole moral world must be reconstructed!

These unexpected and lasting revelations of human longing which have accompanied the return of the saint give ground for confidence in better times, in which the sentence of St. Bernard shall not only be recited but also practiced: "*Lucere et ardere perfectum est.*" Science diffused as a universal light; religion, morality, the sentiment of justice, diffusing themselves everywhere with inextinguishable ardor through a free impulse of the heart: these are the hopeful forces which we must oppose to so many crimes, to so much greed, to so much skepticism, hidden as they are under the most beautiful names.

May it be permitted to me to close this study with the answer which I gave to a group of eminent prelates who, after reading my introduction to the *Little Flowers of St. Francis*, exhorted me to become a convert to Catholicism:

Rome, October 13th, 1913

My dear Monsignore:

Many thanks for your letter so full of sincere faith and practical kindness. Every man who opens his soul to great ideals has a mission. Mine is to defend publicly, religious freedom, to fight in behalf of this greatest truth, to save it from lay and ecclesiastical intolerance.

In every part of the world where believers suffer for a faith sincerely professed (and faith prospers in sorrow, as no one can doubt the sincerity of martyrs) I rise, speak and act. I am proud of having at times saved Christians and Jews alike from oppression.

In Korea, a few years ago, certain Catholics, prosecuted for the propagation of their religion, were acquitted, the defending counsel quoting from my book, *Freedom of Conscience and of Science* (translated into Japanese by the Law Faculty of the University of Tokio), in which I demonstrate that historic Buddhism was immune from the guilt of persecution. Therefore, the Japanese who occupy Korea ought not now to stain themselves with this crime.

I am, Monsignore, outside all the churches; the Jewish creed, into which I grew to manhood, and all the others. But I have passed and am passing half of my scientific and public life in studying the fundamental religions which represent, in every historical period, the forms of the highest morality in action. And I compare myself to a human bee which sucks honey from all heavenly flowers, and is not through yet.

I have a profound respect for my own religion, even if I have lost my ardent faith in it; but when I am faced with reproach for my Hebraic origin, or when the Jews are persecuted, then, in the face of injury and mockery, I feel myself again to be, and I declare myself to be, a Jew.

My favorite ancestor is the prophet Isaiah.

I am proud of the understanding to which I have attained of the greatness of Christianity. I am a student of the hundred and more of its manifestations, rendered concrete in the churches; and I still shed tears, inspired by a celestial kind of melancholy, over the eternal pages of the Sermon on the Mount.

A Great Priest, the highest of all, after reading my introduction to the *Little Flowers of St. Francis* declared (and caused his statement to be delivered to me) that I was an excellent Christian. And he sent me his blessing. I retain an ineffaceable remembrance of that pious Pontiff.

When any question arose of defending the religious freedom of the Catholic church in offices under the government in which I often participated, I have done my duty by opposing the prejudices of unbelievers; and I continue to do so as a free writer. But no one must try to convert me. At my age, in the face of my incessant meditations over philosophy and faith, this would not be possible. Consider me, Monsignore, as a heretic who, were he able, would be the apostle of a new faith that would be a composite of all other faiths.

If you want to make the acquaintance of this new kind of believer, I shall be happy to shake hands with you. And our conversation will be of the purest sort, because it will be free from any desire to proselytize.

With respectful homage to you and the other Monsignori in whose names you wrote to me, I am

Sincerely yours,

LUIGI LUZZATTI.

I have a profound respect for the Catholic church of the first centuries, still in the same condition as it had come from the hands of the humble fisher folk of Galilee, and for the Catholic church of our own times, purged from mediæval intransigentism, temperate in its rites, powerful, humane. And similar is my regard for the Protestant church, which upset ancient customs in its desire to return to the old teaching, renounced the beautiful ways of an artistic cult in order that the forms might not alter the substance, and sponsored a broad freedom in matters of conscience and of science. With its multiplicity of sects, fruit of this spirit of independence, it tempers and changes the evangelical interpretations, running the risk of impairing the sense of divinity by the immense claims of human reason for its judgment and its comprehension of the infinite, of what is beyond—just as Catholicism may impair it through the excessive importance assigned by it to the secondary features of its cult. For this Protestant church, I cherish the same deep respect as for the Catholic. Both are of divine essence.

But I have wondered often, and to-day the uncertainty confronts me with growing insistency: Which of the two great faiths is in its inmost substance nearer to the gospels? Which has better conquered the flesh and an unbridled egotism, inflamed men's hearts more, and supplied more light to their minds? Which has made mortals happier, more resigned to misfortune, animated by a greater love of peace, kinder and more forgiving; which has consoled them more? And which has knit more securely the bonds of family, of fatherland, of human communities? To which does the greatest influence belong in the work of social reforms, in the admirable progress of science and of art?

These are difficult questions, and they are not easy to answer. We know that human beings have been subjected not only to the influence of faith but also to that of other factors like climate, environment, deep-rooted traditions and that they have resigned themselves to an acceptance of the consequences of history. I could wish to live long enough to dedicate myself to this profound inquiry, and write my eighth volume. But I am content to state the problem and continue to play the part of the bee which sucks the divine honey from every faith, to go on considering all the great religions as different notes of a harp that is tuned to celestial harmony.

Perhaps the bee that harvests the divine honey from all the flowers may die of its superabundance of sweet ambrosia! However that be, I shall defend, until the last day of my life, all those who are oppressed against all oppressors and from every form of persecution, open or disguised. I shall defend the churches against usurpations of the state, and the state against usurpations of the churches. And in the name of God I shall always try—as I have done until now—to see that the church shall be inviolate from irreligious contacts of the state.

Sometimes I am attacked by the clericals, at other times by the free thinkers and the non-religious. Even Buddhists and Rabbis become wrought up against me for some of my observations, and I become the target of those who are incensed with righteous indignation through an excess of faith or of unbelief. But I shall always answer, "Father, forgive them," and the Father whom I serve is the supreme guarantor that the expression of religious beliefs shall be free and untrammeled.

With these principles, which preserved my youth, I trust to be able to preserve my old age to its last days.

This book I dedicate to those choice spirits, all of them, for whom the joys of science do not suffice, because they feel profoundly the sweetness of faith and the imperative need of an active and constructive goodness.

LUIGI LUZZATTI.

PART I

INTRODUCTION

CONSTITUTIONAL PRINCIPLES INVOLVED IN THE SEPARATION OF CHURCH AND STATE [1]

THE precursors of religious freedom—who, on account of the similarity of the subject and the predestined advance of the ideas of liberty in general are also the precursors of the freedom of science—have been, though nearly always unconsciously, the initiators of the separation of church and state.

This great constitutional principle of separation derives form and substance both from exuberance of faith and from unbelief. The first impulse is given by religious purity or by a sectarian spirit, which has given nurture to anti-clericalism as an indispensable antithesis to clericalism. Both clericalism and anti-clericalism are the psychological products of the same moral deformity: intolerance.

The various legislative measures on the separation of church and state, depending on which of the two sources they move from, faith or unbelief, acquire a character generally either of tolerance or of persecution, and they either promote or check the life of the creeds. But constitutional freedom succeeds in both cases in working out its salutary effects. Experience teaches that God has no need of any human tutelage in order to kindle a flame in the hearts of believers, and it also teaches that heaven is held up in the firmament without the need of artificial support from human governments. This is the mystical sense underlying an admirable letter sent by Luther to Chancellor Bruck.[2] He writes:

> I just saw two wonders. I was contemplating from my window the stars of heaven and God's beautiful firmament, without noticing any support on which the architect might have fixed this firmament. And yet the stars were not falling and the firmament stood still. But there are some who seek such supports and would eagerly desire to touch and embrace them. Since they cannot do so, they are full of fear, and fret, just as if heaven were to fall down, because they do not see the supporting pillars.[3] If they could have them in their hands, then alone would they believe in the stability of heaven.

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[1] The reader's attention is called to the fact that this chapter was written by me in 1908, but as the problems are so delicate and in continuous evolution I have had to make several additions during the summers of 1924 and 1925. These additions are placed between brackets. The repetition of certain essential ideas is intentional, its justification being that arguments so vital as these principles, which form the essence of religion, should be recorded and suggested again and again.

[2] *The Letters of Martin Luther*, selected and translated by Margaret A. Currie (Macmillan). The date of this letter is August 5, 1530.

[3] The ancient Scandinavian religion taught that the earth was supported by pillars in space.

In these imaginative observations, replete with significance, there is revealed the state of mind of millions upon millions of believers. The invisible church does not appear to them as secure without the help of the state. This help they want to touch and recognize: then only do they breathe freely and are persuaded that the temple will not fall.

But experience, which is attaining greater sovereignty with every passing day, points out by methods of observation which are precise, in social as well as in physical science, shining examples of churches which have risen from a base of religious freedom to the supreme eminence of heaven. And, while the different creeds become refined through the effect of vital competition, this same experience teaches that freedom supplies these creeds with material treasures far superior to those bestowed by the subsidizing state, which, by reason of its liberality, becomes the regulator of consciences.

I should like to consider with particular care in my introduction the two principal aspects of these difficult problems: the one concerning the incomparable importance of the apostles of religious freedom in the historical tragedy of persecution; the other seeking the intimate moral and juridical reasons for the principle of separation.

We admire to-day the precursors, the initiators, the apostles of religious and scientific freedom, in whom we see liberty of science detaching itself like a ripened fruit from liberty of conscience. But for a thorough study of the delicate argument, which is bathed in tears and blood, it is necessary to examine the believer's state of mind, especially in those religions and in those times which claim for themselves a monopoly in assuring the salvation of souls. How much sincere, profound anguish disturbs the faithful who feel that they possess a celestial truth, wish to disseminate it with missionary love, and grieve to see themselves surrounded by so many poor in spirit who do not recognize this truth! They repeat with St. Chrysostom, "Nothing is more precious than a soul: the entire universe is not equal in value to it."

Ardent faith is composed of mystic sorrows, and through its intimate virtues it is joined with the apostolate. The apostolate lights up the hope of converting the unbelievers, becomes enkindled in the good deed, and in its pious enthusiasm for the great end in view at times is not too scrupulous in the choice of means. It is easy, too easy, to pass the line that divides the pure and spontaneous apostolate from proselytism, the latter being an attitude of mind which has deviated from free, mild, evangelical preaching, becomes irritated by resistance and is persuaded that the stubborn must be compelled, by every means, to acknowledge the one true God. And then all good instincts unite with the wicked impulses, first whispering the counsels of intolerance, which are hardly noticed, and then bursting out impetuously, transforming angelical souls into frenzied demons. The passage from the phase of persuasion to that of persecution is easy, the purpose of earthly domination nearly always being hidden under the forms of religious proselytism.

Thus are social environments created which are impregnated with ferocious exclusions. And the inquisitors of all times appear as vindicators of public morality and restorers of a just consciousness of the true God. What task is nobler than the salvation of souls, what crime is greater than heresy which ensnares the purity of faith? And what crime deserves a harsher punishment than that of heresy? Human kindness, which is implicit in the highest manifestations of religious piety, associates itself with the wicked instincts of those who want to dominate the state in the name of God in order to justify cruel persecutions.

Vacandard in his impartial and interesting volume on the Inquisition [4] recalls and sums up Lea's great works [5] in order to affirm that from our present standpoint the Inquisitors ought to be justified, if not absolved.

They do not deserve the execration of humanity: their crimes were vices of the intellect rather than of the soul, and even those who are most severely intolerant of intolerance must grant extenuating circumstances. These extenuating circumstances we are willing to concede in all sincerity, accepting the indulgent explanations the more readily because something of the spirit of the old inquisitors—more of it than would be believed—is found among those who pronounce furious judgment and utter savage outcries, while enjoying and exploiting a freedom for the winning of which they made no sacrifice whatsoever.

But we say in our turn: if the cruel malignity of the times, if the dark vices of social environments, if the very virtues incited the killing of heretics and men of science, and if the somber authors of so many crimes must be fully acquitted of their crimes, how great must appear the kindness and valor of those apostles and martyrs who, soaring above the mediæval darkness, perceived new horizons of religion and learning, and divined in the shining light of free faith and free science a type of higher humanity?

If the objective social environment was so perverse that it justified the intolerant and the persecutors, how much greater effort, illumined with virtue and genius, must have impelled the great spirits who liberated themselves from that somber environment? Therefore, let us absolve the inquisitors if we wish, but let us glorify the martyrs all the more. We utter no vindictive words against the progeny of persecutors, but we advocate an ever more sincere and ardent cult of the pioneers of religious freedom. They have won the right to shine in the history of the past and of the future, taking for their motto the words of the Divine Master: "Learn of Me, for I am meek and lowly of heart!"

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[4] *Etude historique et critique sur le pouvoir coercitif de l'Eglise.* Paris, Librairie Bloud & Cie. M. Vacandard is *aumonier* of the *Lycée* of Rouen and a devout Catholic.

[5] Mr. Lea is the most authoritative historian of the Inquisition, and also the most disinterested. Some of his works on the subject are: *A History of the Inquisition of Spain; A History of the Inquisition of the Middle Ages; A History of Auricular Confession and Indulgences in the Latin Church; Superstition and Force: Essays on the Wager of Law, The Wager of Battle, The Ordeal, Torture; Chapters from the Religious History of Spain, Connected with the Inquisition; Censorship of the Press; Mystics and Illuminati; Endemoniadas, El Santo Niño de la Guardia; The Moriscos of Spain, their Conversion and Expulsion; The Inquisition in the Spanish Dependencies* (*Sicily, Naples, Sardinia, Milan, The Canaries, Mexico, Peru, New Granada*).

These apostles, these initiators, have snatched religious freedom from extinction, and with religious freedom is bound up the fate of all other kinds of freedom. When the conscience of a believer succeeds in harmonizing the practice of his faith with a profound respect for other creeds, and while professing the apostolate and trying to draw unbelievers within its orbit still recognizes their right to follow a different spiritual principle, that conscience is writing, all unaware, the greatest page in the code of public law, and is training itself in the sound exercise of all other constitutional principles.

A group of individuals, each of whom has this training in toleration, forms a group of citizens of a superior type for participating in public affairs. The organic evolution of England, a country in which all constitutional guarantees were developed before religious guarantees, proves, in fact, that religious liberty is the most difficult and slowest of liberties to root itself in private life and in the life of the state, and while it ought to be the very basis of a civil community, generally succeeds in being only its crowning feature.

Democracy measures its aptness for its task by its ability to sustain the effects of liberal rule. Now, contradictions in the earthly city are less unbearable than contradictions in the city of God. The struggle for the electoral franchise, the yielding of minorities before the deliberation of political majorities, virulent controversies in the public press and in parliaments, the deference of all wills to a single will, restrained and placed under the protection of common law—all this educating toil, all this painful exercise of public life, is less difficult than for different creeds to live tranquilly side by side. It remains true that religious independence, which ought to be the first in time, as it is first in importance, generally appears last. There are, to be sure, a few shining exceptions, such as the winning by minority religionists—of the right to settle and obtain citizenship in the state.

There are peoples who believe themselves worthy of a democratic government but of whom it must be said that because they do not have freedom of religion, but live under the monopoly of a single creed, their constitutional government is only an appearance and servitude is the reality. This lack alone is the greatest proof of their unfitness to sustain the glorious burden of popular rule. If a nation were to lose consciousness of all other political and civil guarantees, and only religious freedom should remain intact, then it would reconstruct spontaneously all the other essential conditions of a democratic government.

But if, while enjoying the full exercise of all the other public rights, it has not achieved that of freedom of conscience and of science, because it does not feel the need of it, little by little its spirit will wither and it will become prone to every form of servitude. Therefore the first criterion by which to judge of the excellence of a constitutional régime, and of its sincerity, not only in appearance but in fact, is to be found in these simple inquiries: How do the citizens mutually respect their inevitable divergences of faith and philosophy, how are they protected by public law and civil law? Every constitutional inquiry which aims to gain insight into the minds of the people, and not to be satisfied with the vain glare of external forms, must begin its analysis at this fundamental point.

II

The three great types of separation of church and state, around which minor experiences cluster, are represented by the United States of America, Japan and India in Asia,[1] and France in Europe. The various experiments of the Latin republics of Central America developed from those of the United States. Japan and British India still shine as solitary instances of tolerance in Asia, but their example will surely be followed by other Asiatic nations. France, with her striking reforms, has, as it were, forced the difficult and delicate problem of separation upon the attention of all the states of Europe and thus wields compelling power for good or ill. It will be well to present in their main outlines these great politico-ecclesiastical institutions, shining like beacons in the moral world.

The origin of the different colonies of New England was more religious than mercantile in purpose. The Pilgrims, crossing the ocean because of offenses inflicted on their beliefs, surpassed in number the adventurers for wealth. And although they wanted to erect in the New World altars for their own creed, the necessity of communal life with peoples of different origin and faith imposed tolerance. This tolerance was affirmed in the statutes of Maryland[2] through Jesuit initiative, and in Rhode Island through the activity of Roger Williams, the American saint of religious freedom, whose moral and political virtues are briefly narrated in a chapter of this volume.

The story of how this work of preparation led to the first great experiment in separating the state from the churches—a principle which the United States proclaimed at the same time it declared its independence from England—is narrated by Sanford H. Cobb in his little known but very valuable book entitled *The Rise of Religious Liberty in America.*[3]

For the first time a state which was to have a splendid destiny proclaimed the constitutional principle that no religious creed ought to be either proscribed or promoted. Roger Williams founded the little city of Providence in order that in this world of gloomy intolerance there should be one spot where the worship of God could be free, and the spirit of

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[1] British India precedes Japan in order of time; but Japan joins to freedom of religion an entire sound constitutional system.

[2] The following works may be consulted for the constitutional history of Maryland: John H. Latané, *The Early Relations between Maryland and Virginia;* John Archer Silver, *The Provisional Government of Maryland* (*1774-1777*); Francis Edgar Sparks, *Causes of the Maryland Revolution of 1689;* George Petrie, *Church and State in Early Maryland.*

[3] The Macmillan Company, New York, 1902.

Providence became the spirit of all that New World. But here several new observations emerge from an analytical examination of such great and holy themes. The dominating idea of religious freedom in the United States issues primarily from an ardent and unlimited love of God; it is a celestial piety which governs these constitutional guarantees. The remembrance of ancient fetters, of old restrictions and limitations, of a privileged tyranny of a dominating priestly caste, of offenses against conscience which, renewing and increasing by productive silence, renew and improve their God, dislike of supporting with revenues beliefs judged to be false—all this broke out decisively in those sublime and creative moments in which people cast off for a time all dross and all crimes and appear, through their kindness and dignity, nearer to the Divine Father. There follows decline of enthusiasm, evil temptations and reactions; but the holy leaven of that emancipating hour does not subside again, and the institutions that it has created are rejuvenated, approach their origins more closely. Now the members of those great constitutional conventions, to which we owe religious freedom in the United States were the unassuming heroes of the new public morality, and they play the rôle of religious redeemers even before that of political redeemers. They felt and knew that they were offering the greatest gift to their country, illuminating it with the torch of spontaneity of faith, granting it a *habeas corpus* of the soul.

All the hypocrisy, all the lies, all the pretense and intolerance of which a religion imposed by force and supported by public laws and constitutions has always been perfidiously fecund at the sacrifice of that sincerity which is the essence of every celestial virtue—all of these were buried forever by the great and sublime constitutional principle of religious freedom.

All the documents having to do with the separation of church and state breathe a candid ingenuousness of faith: there should be no state mediation between God and the believer—that mediation which is an obstacle even when it pretends to be an aid and offers itself as such. Moreover, this proclaiming of the exclusion of state religion from the federal government of the United States gave a guiding principle to the various state governments, each one of which had the power to regulate, among other matters, that of religion. And more or less speedily, more or less heartily, every state progressed toward separation, and by doing so raised for France all the problems that embarrass that nation to-day, because it had not studied them with sufficient care in preparation for its law of separation.

Among other things, the liberal method adopted in the United States for the passage from a régime of privilege to one of equality attests that a religious spirit was at the source of the separation of state and church.

In 1777, one year after the Declaration of Independence, the constitution of the state of New York abolished all sovereignty of the Christian churches, proclaiming that "the free exercise and enjoyment of a religious profession and worship, without distinction or preference, shall forever hereafter be allowed within this state to all mankind." At the same time, this constitution declared that all grants of land made by the king's authority or by his predecessors before the fourteenth of October, 1775, were to be respected. Thus the property of the different churches and their educational and charitable institutions were saved to them.

On the other hand, the state of Virginia, where the Episcopal church had obtained considerable property by royal grants or from the government of the colony, enacted in 1801 a statute granting to institutions functioning for the benefit of the poor, in every parish, the use of property which became free through the death of the ministers of the Episcopal church. In this way the state, as it has done now in France, wished to take back the property of the church and give it to the poor. But the Supreme Court of the United States declared the act of the legislature of Virginia unconstitutional and void, taking the position that the grants of land made to the Episcopal church in that state could not be revoked.[4]

From these regulations we can infer how the separation was made to enrich, and not to despoil, the different creeds, precisely because the great constitutional reform was inspired by faith and not by unbelief. And, although incompetent in religious affairs, the state was eager to act with the redeeming intent of Christianity. This appears nowhere more clearly than in the technical details of the laws of separation governing the principal states of the Republic in their relations to Catholicism.

The principle of separation of church and state does not exclude the necessity of providing, under particular or general laws, for the moral and economic welfare of the different creeds. These must invoke measures of public and civil law. A church is, in fact, a corporation and a society: the faithful pledge themselves to make contributions; the various ways of nominating the ministers of the creed must be regulated and the specific characteristics that mark it and differentiate it from other creeds determined. Though it raises winged prayers to heaven, the material wealth which it has accumulated and distributes nevertheless binds it to the earth. Therefore, even admitting the entire separation of the state from the churches, the latter live and develop in the sphere of public and civil laws of the countries in which they exist. This public law and this civil law may be favorable or opposed to the intrinsic interests of a creed. The churches, though free from the ties of the state, live *in* the state, and not *outside* of it.

The formula which I adopt, *Free religions in a sovereign state*, derives its origin from the ideas expressed above.[5]

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[4] Cooley, *On Constitutional Limitations* (8th Ed.), Chap. IX, p. 558 (compers 960f.), discussing Terrett vs. Taylor 9 branch 43.

[5] A writer eminent for his learning and high moral qualities, Tommaso Gallarati Scotti, discusses this formula of mine. I do not consider his observations to be valid at those points where they are opposed to principles of public law which are nowadays beyond discussion and to what is written in this part of my introduction. In the first place I did not say, A free church in a sovereign state, but Free religions in a sovereign

The institutions of public and civil law may be characterized as liberal if their various provisions are favorable to the tendencies of the different churches, illiberal if they offend them.

Thus it may happen that even after the proclaiming of the principle of separation and the absolute incompetence of the state in religious matters, the church may complain that the separation is not in accordance with its needs, or even that it groans under a new kind of servitude. What happened in the politico-ecclesiastical legislation of the state of New York, which we shall now briefly narrate, aptly illustrates in a number of ways the various tendencies of public and civil law in their relation to religion.[6]

The state of New York, confronted by immigration which poured into the melting pot of the new country elements of every different creed and nationality, enacted as far back as 1813 a legislative measure of general character concerning religious associations. The purpose of this act was to regulate the churches in their temporal relations, both in their organization as religious and as incorporated associations. When incorporated they

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state, and I have added the qualification of sovereign to the state in order to indicate its dominating character. But this could be left out, as sovereignty is the essential attribute of the state and two sovereignties cannot coexist in one state. Whoever examines the notes placed by Cavour opposite the formulas of his representatives in the memorable negotiations initiated in the last months of 1860, in order by spontaneous agreement to put an end to the temporal power of the Pope, may see that in the mind of the great statesman the sovereignty of the state is always in accord with a due independence of the church. As an example, there was, among Signor Pantaleoni's propositions, the immunity of the mass of property given to the Pontiff from any political action of the government. To this Cavour answered: "I approve the exemption from taxation, but we shall need explanations about proposed immunity from all political action of the government. It could not be permitted that such a territory should become an asylum for criminals, nor that it should be free from measures of policing, of justice and of hygiene." We may add that when Signor Pantaleoni advanced a proposition declaring instruction in the university to be free, but reserving the right of censorship to bishops where the teaching of religion was concerned, Cavour answered: "Every right of censorship over instruction given by the civil administration is refused to the bishops. The clergy may attend to the religious and theological instruction in seminaries and in churches, where the civil power will refrain from any interference, but the bishops must in turn refrain from any interference in the schools and universities, even as concerns the chairs of religion and theology." And he wished the provisions of the civil laws regarding the creation and the means of existence of ecclesiastical institutions and the alienation of their property to be kept free.

[6] Besides the well known works by de Tocqueville and Bryce, who studied the political mind of the Americans at periods a half century from each other, we recommend for the special questions treated in this introduction a few works from which we have drawn our facts. The consideration and technical observations are ours; the works referred to are as follows: Tyler, *American Ecclesiastical Law*, published by William Gould, Albany, 1866; *The Federal State Constitutions*, *Colonial Charters and Other Organic Laws of the United States*, compiled by Benj. Perley Poore, Parts I and II, Washington, Government Printing Office, 1878; le Vicomte de Meaux, *L'église catholique et la liberté aux États Unis*, Paris, Lecoffre, 1893; Reverendo Prof. Gedeone de Cincentiis, *L'America del Nord*, Napoli, Pierro, 1906; J. G. Shea, *The Catholic Church;* Colonial Days, *The Catholic Church in the United States;* J. G. Shea, *The Life and Times of Archbishop Carroll;* Hassard, *Life of Archbishop Hughes;* Aristide Briand, *La séparation de l'église et de l'état: rapport fait au nom de la commission de la Chambre des Députés*, Paris, Cornély, 1905; *Bulletin de la Société de Legislation Comparée*, avril-mai, 1905.

could own property by means of trustees, but according to the law of 1813 legally constituted religious societies exist in that state, whether regularly incorporated or not.

In order to form a church with civil status seven persons twenty-one years of age or over are sufficient. They must be citizens of the United States, the majority of them residing in the state of New York, and they must declare in the prescribed way before a competent public official with whom deeds to real property are recorded, the name of the new society, its purpose, and the names of seven trustees, at least five of whom must not be ministers of the religious body thus asking for civil registration.

There are two restrictions to be noted in this law enacted in a country of supreme religious liberty: the first concerning the citizenship of trustees and the other providing that five out of seven trustees must be laymen and not ecclesiastics.

The association may receive gifts and legacies, and acquire real and other property, but even here there are two conditions which are worthy of the closest attention. One provides that the property cannot be diverted from the sacred purpose for which it is destined; the other, that no association legally constituted may own more than fifty thousand dollars worth of real property. The latter provision greatly limits the wealth of religious bodies. The sum total of the income must not exceed ten thousand dollars a year. Naturally there are exceptions with respect to the value of the church building and the ground occupied in the principal centers, as in New York City, where real estate values have risen rapidly. If for six years the corporation neglects filing the inventory which gives proof of its compliance with the law and the limits imposed by law, the church loses its standing as a corporation.

As we see, the New York legislators were preoccupied from the beginning with the old suspicion that religious liberty might cause the accumulation of too much property by a single religious organization, thus reviving a sort of "mortmain," or might result in a surrender of the churches into the hands of foreigners. It is easy to perceive that this indicates the prejudice of the old Protestant spirit against "Popery," of course without expressing it explicitly.

All the other points of the act of 1813 concern the details of administration which are placed in the hands of the trustees, as for instance the location of pews, the burial of the dead and other incidentals of the cult.

This law, the general provisions of which are still in force, forbids a religious association duly incorporated to use for the advantage of another creed the property assigned by donors to a specified church. This is to be carefully noted in connection with the observations that will follow concerning the property of the Scotch churches.

But this rigid rule, although repeated in other laws of the United States of America, could not prevent the organic evolution and the rapid development of religious sects.

In 1810 for example, in the city of Boston and in greater proportion in the state of Massachusetts outside Boston, many Congregational churches were converted to Unitarianism: out of three hundred and sixty-one existing in that state, ninety-six decided to adopt the Unitarian doctrine. In several cases the majority of the communicant members of the congregation decided in favor of the change of faith. In other cases the church as a corporation adhered to its original creed, but the majority of the parish members or of the association constituting the legal corporation connected with the church decided upon the change in faith and appointed a Unitarian minister. Various lawsuits of a civil character, but possessing a religious flavor, resulted from these changes.

It was maintained in Massachusetts that the churches were bodies authorized to keep their property according to the purposes declared in their articles of foundation. But the presiding judge decided that the only condition which gives to a church a legal character is its connection with an association regularly incorporated. This decision largely favored the Unitarians, and not a few orthodox churches (spiritual bodies) were deprived of their property by single congregations (legally constituted bodies) becoming Unitarian.

We know by examination into this matter that courts of justice deny to themselves the right to inquire into the doctrines or opinions of any religious association with the purpose of declaring which are true and which are false. Their duty is only that of investigating the civil rights derived from the terms of their foundation and the agreements entered upon. They do not discuss questions of creed, but only those of law.

Returning to the place whence our discussion started, the general rules imposed by the law of 1813, including those for the disposition of real property,[7] did not all appear to be in accordance with the principles of religious liberty which flourish in many ways.

We are confronted here by more than one hundred sects, principally Christian, among which we find cults of the oddest conception and the strangest composition, such as the Mormons [8] and the Christian Scientists. Catholicism has grown powerful and rich, as have also the Methodist, Baptist, Presbyterian and Lutheran denominations, the Protestant Episcopalian church and the Greek Catholic church which came with the Eastern Slav immigration.

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[7] See the truly remarkable and already quoted work of Joseph P. Thompson, *Church and State in the United States*, Boston, Osgood, 1873. The property of the church can be mortgaged, but the trustees cannot sell any of it without the authorization of the majority of the members of the congregation and the express approval of the court of justice, which is empowered to examine into the cause and the purpose of the sale.

[8] The sect of the Mormons, formed in 1827 by Joseph Smith, founded the state of Utah in the region around the Great Salt Lake near the Rocky Mountains. The Mormons call themselves "The Church of Jesus Christ of Latter-Day Saints." On account of their fanaticism and of the practice of polygamy they were always persecuted in the United States. But the law passed in 1887 forbids polygamy. When they renounced it (at least officially) the territory of Utah was admitted as a state into the Union. From that time on the Mormons tried to install a régime of religious freedom, and Salt Lake City, their capital, has a Catholic cathedral, a synagogue and churches of different Protestant denominations, among which is a Christian Science church. They have a seemingly collectivist agrarian system, and they succeeded in transforming the desert region of Utah into fertile fields, pasture lands and vineyards.

The new and the old cults alike demanded legislation adapted to their moral and economic natures, and to the rites and the doctrines to which they owed obedience.

The Catholic church, which saw the number of its members constantly growing as a consequence of immigration, could not admit the elective principle nor accommodate itself to the severe limitations imposed by the law in the matter of the purchase and use of property. It too had to struggle and resist to obtain for itself religious liberty and legislative measures adapted to its inflexible hierarchy. Between the old Protestant element of New York and the Catholics with their imperious demands a struggle was inevitable, and it burst forth with the same vehemence which characterized it in Paris recently.

It will be well to review here the principal incidents of this struggle, because the happy solution which the legislation of the United States has discovered may serve as a guide in the settlement of similar European controversies.

The religious legislation of the United States, in the first period of that country's history, reflected the character of the religious groups for which it cared particularly. Those were churches without a Pope, without bishops, or with bishops who yielded to the autonomy of the parish and of the numerous religious associations. In the early days even Catholicism tried to conform to this legislation, at least to the provisions as to church property. Archbishop Carroll had agreed that parishes which built churches might entrust their administration to representatives elected by the parishioners. But soon the administrators of those Catholic churches wished also to affirm their spiritual autonomy, rejecting the priest appointed by the bishop or wishing to confirm the priest whom the bishop had removed. These divergences were becoming acute in several places in the United States, New York among them, and they finally reached the Vatican. The trustees of the parishes claimed a kind of right of patronage, granted by the church in other times to the founders of local churches. And then, changing their tactics, they appealed to the principle of religious freedom, opposing to the authority of the Pope and of the bishop the authority of the people as represented by the state. Thus the Catholic church in America was shaken to the very foundation of its inflexible hierarchic rule, and if the Vatican had not interfered it would have assumed some aspects of a Protestant sect.

In 1822, in Philadelphia, the bishop had been banished from the cathedral and the trustees supported an excommunicated priest. Pope Pius VII intervened with his letter *Non sine magno* of the second of August, 1822, in order to condemn the "immoderate and unlimited power claimed for themselves by the trustees, who have dared to subordinate the pastor of the flock." The bishop of Philadelphia, a feeble old man, had accepted a compromise with the rebels; but Pope Leo XII canceled the agreement, because it offended the immutable principles of the ecclesiastic hierarchy.[9]

What was this compromise which Rome could not accept? The position of first pastor of the cathedral was assigned to the bishop, and he was permitted to nominate the priests. If the latter were not accepted by the trustees they were required to submit to a final examination by a committee composed of the bishop, two clergymen chosen by him, and three trustees designated by their colleagues. Thus constitutional government was introduced into the Catholic Church, which could not accept in America the principles it rejected in Europe. The struggle between the trustees and Rome continued until 1831 when it ended with the victory of the Vatican. But it was to be resumed more hotly in New York in 1834, when the bishop was Jean Dubois, a native of Paris. When Dubois was a simple priest he had taken an oath of obedience to the civil constitution of France, but he repented of this, and having come to America with recommendations from Lafayette he began to support the independence of the ecclesiastics from the dominance of the trustees, that is to say of the electoral councils, whom he opposed in this thundering declaration: "I saw the French Revolution; I can live in a cellar or in a garret; whether I come up from the cellar or down from the garret, I shall always be your bishop." However, that kind of struggle, which was to decide the destinies of the church in New York, called for a giant, not a bishop weakened by old age and misfortune. His successor, Hughes, the son of an Irish peasant, was equal to the task.

A priest of the New York cathedral who had been dismissed by his bishop was given a position in the parochial school by the trustees. The bishop appointed another priest to the same position, and thus a conflict arose. The civil law sustained the action of the trustees but the ecclesiastical law condemned it, and the prelate issued from his pulpit this memorable declaration: "If the electoral council to-day dismisses the catechist, to-morrow it will drive out the priest. Do you want this? Do you want it to become a gilded slave like the Church of England? Or do you prefer the persecuted religion of poor Ireland which maintained its freedom at the price of all that men hold dear?" Thus did the bishop regain with decisive effectiveness his dominion over the faithful, and the electoral councillors bowed before his authority. He then contrived, by a series of shrewd measures, to reduce the electoral councils to a rôle of mere outward show.

The trustees could not deprive the curate of his stipend, nor provide without his consent for the conduct of worship or the appointment of the sexton, the parochial school teachers, or the members of the choir. It was not permissible to take from his jurisdiction the parish accounts, which must be submitted to the bishop, because in some instances the electoral councils had been guilty of maladministration in New York, had loaded their parishes with debts and the churches were sold at public auction. When this happened the bishop, assisted by his acolytes, bought everything back and took over the property, entrusting its administration to the curates, who were to make an inventory and draw up the annual report of income and disbursements, associating with themselves a few laymen in order to verify their accounts. The reports were to be printed and read publicly, and afterward sent to the bishop for his approval. Thus did the Catholic church in New York try to make constitutional guarantees accord with its supreme authority!

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[9] Decision of the Propaganda Congregation of April 30, 1827, confirmed by Pope Leo XII on May 6 and transmitted to the bishop of Philadelphia on May 10, 1827, with a letter from the Prefect of Propaganda.

A decision was reached to the effect that at the death of the bishop or curate the property of the church should be delivered, through a testament previously drawn up in legal form, into the hands of the metropolitan bishop or the senior bishop of the district. The civil law of 1813 did not give its approval to such dispositions, and some individuals were vigorously opposed to them. Romanism at this time was beginning to arouse suspicion, partly on account of what were said to be its concealed and crafty tactics, and a party was organized that we should call *anti-clerical.* Its program was to tear down churches, despoil convents, and demand that the state curb the accumulation of ecclesiastic wealth. It was as though the free Americans were living in France at the time of the French Revolution, instead of breathing the invigorating air of American religious freedom.[10]

As a result of this spirit of rebellion a law was enacted in 1855 which forbade property assigned for the use of a religious society to be held in the name of any ecclesiastic, and ordered under penalty of seizure and if necessary of confiscation, the transfer of all such property to the lay associations recognized by the State. How similar is that struggle to the conflict going on in our day in France between the government and parliament on the one side and the Catholic church on the other!

Thus the state of New York had its *Kulturkampf* from 1850 to 1863, just as Germany had in the time of Bismarck and France in the time of Combes! *Kulturkampf* in the traditional land of religious freedom, not for the purpose of preventing acceptance of dogmas or violating freedom of conscience, but with the aim of opposing the Catholic principle of hierarchy and the ecclesiastical administration of property! What would the fathers of the glorious constitution have said to that, they who dictated the principles of freedom of conscience? What would Washington say, raising his head from his revered grave? What would those eminent writers have thought who, under the compelling influence of de Tocqueville, had extolled the full and triumphant religious guarantees of the United States in opposition to European legislation?

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[10] These baneful tendencies are now reappearing in some parts of the United States in the actions of the Ku Klux Klan. In order to avoid the appearance of singling out the Catholics, the Klan persecutes the Jews also. But on the twenty-third of January, 1925, the Federal Council of the Churches of Christ in America and the Central Conference of American Rabbis by unanimous decision issued an energetic protest against the Ku Klux Klan, branding it as an organization "which rouses religious prejudice and race hatred, under the mask of secrecy and the bond of iron oaths, thus violating the foundations and the ideals of our nation and of religion. It deserves therefore to be condemned, as we condemn it." Council and Conference are coöperating to obtain a better *entente* and to foster cordial relations between Christians and Jews. (See Appendix II.)

But the great prelate Hughes resisted with all his strength; flaming with religious wrath he protested, thundered, demanded liberty. And he won a complete victory: the Legislature of the State of New York enacted a supplementary law entitled: *An act to provide for the incorporation of religious associations*, adopted April 5, 1863. This act of 1863 does not annul that of 1813 but amends it, adding the following provisions:

> It shall be lawful for any Roman Catholic church or congregation now or hereafter existing in this state to be incorporated according to the provisions of this act. The Roman Catholic archbishop or bishop of the diocese in which such church is erected or intended so to be, the vicar general of such diocese and the pastor of such church for the time being, respectively, or a majority of them, may select and appoint two laymen, members of such church, and may, together with such laymen, sign a certificate in duplicate, showing the name or title by which they and their successors shall be known and distinguished as a body corporate by virtue of this act. . . .

It will be seen that the great difficulty in having a religious congregation ruled by elected members seemed to be eliminated. The ecclesiastical leaders were made founders and administrators according to the law, and they designated every year the two laymen who were to serve on the council of the church.

But the law of the state of New York did not grant to the archbishop or the bishop the power of concentrating under a single head all the property of an ecclesiastical community. It was a compromise between two exigencies, but as far as the principal points were concerned victory rested with the Catholic hierarchy. The latter, however, must defer to the collegiate government of the individual churches, and the dream of the great archbishop of New York, to have sole control of all the Catholic temporal possessions, had not been realized. In fact the second article of the law of 1863 prescribed that

> the trustees of every such church or congregation and their successors shall have all the powers and authority granted to the trustees of any church, congregation or society, by the fourth section of the act entitled, *An act to provide for the incorporation of religious societies* passed April 5, 1813. And they shall also have the power to fix or ascertain the salary to be paid to every pastor or assistant pastor of such church, on condition, however, that the whole real and personal estate of any such church exclusive of the church edi-

> fice, parsonage and schoolhouses, together with the land on which the same may be erected, and burying places, shall not exceed the annual value of income of three thousand dollars.

As we can readily see, even after peace had been declared there still existed the dread of the dead hand (mortmain) and fear of the accumulation of property by a single church. From this dread was derived the third section of the law, in accordance with which an inventory of the entire property of the church, together with a report of the annual income, attested to by a sworn affidavit, was to be submitted every three years to the Supreme Court of the judicial district. Naturally these harsh measures could not and ought not embrace the charitable activities, the donations, and all the other means by which the church multiplies its income and its charities, nor are these rigidly scrutinized.

The fourth article of this law deserves particular study because it is in absolute contrast to the anticlerical tendencies of Latin countries. What would happen to the property of a church legally constituted when it should be dissolved, through non-use or neglect to use any of the powers necessary for its preservation, or otherwise? For a period of six years all the property of the dissolved association would remain in abeyance, to be delivered finally to a new reincorporated religious body that should replace the defunct one.

Thus the state of New York, without abdicating its authority, emerged invigorated from the struggle, because it reconciled religious freedom with protection of the public interest, and maintained its civil law without detriment to the Catholic hierarchy. A special law for the Catholic churches could not stand alone, and all the other religious bodies were to ask for legal measures adapted to their needs. The laws of 1871 for the Greek church, of 1876 for the Baptist church, of 1886 for the Episcopal church, of 1886-87 for the Evangelical Lutheran church, and provisions for the Dutch Reformed church enacted in 1819, 1835, 1869 and 1883—all derived their substance and form from the law concerning the Catholic church. The provisions previous to the law of 1863 were almost unnoticed before the conflict between the state and the Catholic hierarchy came to render the arrangements for specific creeds particularly conspicuous.

But in order to emphasize this particular example of a sovereign state which accords the different creeds the protection of the law, in so far as possible, it will be well to examine also the law of the state of New York concerning the Greek church, passed on the thirty-first of January, 1871. We find in it the affirmation of the boldest principle in legislation. Because the hierarchy of the Greek Orthodox churches incorporated in the state ascended to the Czar himself, the first article of this law declares that only the envoy extraordinary and minister plenipotentiary of Russia and the Russian consul-general in the United States, accredited as such and recognized by the federal government, may sign the application for the legal organization of this church. The successors of the envoy extraordinary and the consul-general shall by virtue of office be the trustees of every incorporated Christian Orthodox Catholic church. These regulations follow others that are identical with those contained in the act of 1863 concerning the Roman Catholic church.

From the point of view of public law this representation of the Emperor of Russia in the administration of the Greek church in New York was indeed extraordinary, and it expressed the ultimate concession, the extreme pliancy, that a sovereign state could yield to the intrinsic needs of a church. Only the "curb of art," of which Dante speaks, prevents us from searching further in order to see if there were in it even a principle of abdication of the sovereignty of the state.[11]

But in other state governments of the United States—in California, Oregon, and Illinois—the Catholic churches obtained through the law the realization of what had seemed to be the dream of the archbishop of New York, that is to say, permission to invest a single person, the bishop, the principal priest or the senior priest, with the powers and the rights of a civil corporation, in accordance with the rules established by law. The corporation under a single head acquires juridical recognition with the presentation of the Pope's letter of appointment and other similar documents.

Naturally the prelate who represents the corporation bears an enormous weight of responsibility. But the Roman church knows how to find men with strength proportionate to the most heroic efforts!

It is not, therefore, to be wondered at that the Vatican declares itself satisfied with the religious liberty so loyally utilized, and that the church publicly expresses its satisfaction. On the occasion of a triumphal tour made at the end of 1897 and the beginning of 1898 the Apostolic Delegate, Monsignor Martinelli, answered as follows an address from the citizens of St. Paul:

> An observing mind cannot refrain from noticing that the marvelous progress of the Catholic church in the United States is due not only to the principles and doctrines of the church, but also to the freedom which it enjoys in this country of liberty. . . . Why be surprised at so much greatness when it happens in a country in which free rein is given to the energy of the human spirit, and where it can develop in a productive way?

As we see, the happy environment transforms and rejuvenates even the speech of apostolic delegates! Catholicism, when it had to work in the free and wholesome air of a variety of creeds and compete in the things of heaven with other faiths, knew how to acquire, in the struggle for the salvation of souls, new energy and flexibility of which it had not believed itself capable. And it has learned how to fight and win with the resources and the weapons of competition.[12]

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[11] Both the law of 1863 and that of 1871 are taken from the *Laws of the State of New York*, Albany, Weed Parsons and Co., printers. (And what is happening to-day?)

Notwithstanding the separation of church and state, the Christian spirit which animates the entire great republic demands at times some compromise.

In the military academy at West Point there is a church built by the government and presided over by a Protestant chaplain. The Catholics, while recognizing that the Protestant cadets were in the majority, asked for permission to build a chapel on the grounds of the academy, to enable the cadets of their faith to fulfill the duties of their religion. Protestant bigots rose against this request, repeating the old cry inherited from England: "No Popery." But bigotry did not triumph, for a great majority in Congress acknowledged the right of every denomination to build churches and chapels at West Point, with the permission of the military authorities. Even when the state interferes directly it never abandons its principle of equality of treatment.

Naturally there exist in every country persons who exceed proper bounds. Liberalism always gives rise to a minority of ultraliberalism. And since the government of the American republic declares itself incompetent in religious matters, but not atheistic, it favors the religious spirit whenever it can do so without abandoning its principle of freedom of conscience. Philip Schaff, in his remarkable monograph, *Church and State in the United States*, dilates upon the program of unbelief, as he calls it, with too great severity. This program is opposed to the other attitude which desires a government that will protect and promote religion,—an attitude not entirely extinguished even in the United States. The lay program referred to demands that churches and other ecclesiastical institutions be not exempted from just taxation, that chaplains be no longer employed in Congress, in state legislatures, in the navy, in the army, in prisons, in asylums, or in any other institution subsidized with public funds, and that all appropriations for religious institutions from the public treasury cease, even when their purpose is education and charity. It holds that all subsidies for ceremonies or festivals that savor of religion should end and all laws or customs intended to impose Christian morality or prescribe observance of the Sabbath should be abrogated. It urges further that the use of the Bible as a book of moral teachings in the public schools be abolished, and that the oath taken in courts of justice and for induction into all government offices be superseded by a simple affirmation, strengthened by penalties for perjury.

Not a few of these requests, advanced by the Liberal League as far back as January 4, 1873, obtained due recognition. The last residue of civil and political inequalities are near extinction. As Bryce observes in Part VI of his revised work they still linger in some states but are gradually disappearing. With few exceptions they now survive only in memory.

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[12] In the territory assigned to the See of New York, there were in 1808 three churches, four or five priests and five thousand Catholics. One hundred years later there were nine dioceses, seventeen hundred churches, four thousand chapels, with twenty-seven hundred priests and three million Catholics.

It can be said that in the great majority of the states, in addition to the persistent influence of the Christian spirit, the ideas of the Liberal League, on one point or another, are being incorporated into the reality of political life. Lord Bryce observed that six Southern states still exclude from all public office those who deny the existence of a Supreme Being. In two states, Pennsylvania and Tennessee, whoever does not believe in God and in a future life in which rewards and punishments shall be distributed is declared ineligible to public office. In Maryland and in Arkansas no one can be a juryman or a witness who does not believe in God and in the rewards and penalties of a future life. But these offenses against freedom of conscience have almost entirely disappeared to-day, more than twenty years after Bryce first wrote his book.[13]

France effected the triumph of great constitutional principles, without separating church from state, toward the end of the eighteenth century, with the proclamation of the rights of men and citizens. Italy and all the other countries which adhered to the doctrines of 1789 followed the example set by France. The English people and the Protestants of the United States had to wait over a century before these principles prevailed in their countries. In the United States, where Protestantism predominates, the last religious restrictions are slow to disappear, and it took the entire nineteenth century—we repeat it emphatically—to reach, almost everywhere, a perfect civil and political equality above and beyond every religious belief. And what is still more curious, the federal courts of the United States did not intervene, in response to the urging of the agnostics or the liberals, to prevent the restriction of civil and political rights in the name of religion in those states where such restrictions occurred.

Since we are speaking of exceptions to the principle of religious freedom, we must observe also that there is an attempt to evade the program, sponsored by the Liberal League, of refusing budget appropriations to religious sects which profess charitable aims, real or feigned. Some laws in the state and the city of New York were blamed because budget appropriations were made for Catholic institutions, with no attempt to conceal the fact that the motive was one of vote-getting.

Mr. Schaff takes too lightly the truly separatist action of the League, which upholds at many points the just effects of religious freedom and which reaps new triumphs every day. But what remains true is that the character of politico-ecclesiastical legislation in the United States is one of religious freedom *in favor of* the churches and not *against* them. This legislation did not originate in lay rationalism, and it has not as yet entirely completed its evolution. It is getting more and more secular, as can be seen in a letter by Theodore Roosevelt.

During the presidential campaign of 1908 insistent letters from different parts of the country were sent to the President, asking him whether it were true that Mr. Taft belonged to the Unitarian church and that, his wife and his brother being Catholics, he nourished dangerous sympathy for that church. It must be noted here that the "old" Protestants detest the Unitarians even more than they do the Catholics, as the former deny the divine nature of Christ and consider him only as the most perfect expression of humanity. During the campaign Roosevelt abstained from answering, because he considered such a controversy at that time, mixing sacred and profane matters, to be unworthy of the dignity of the great republic. But when the electoral contest was over the President decided to answer, because the office of ruler of a country involves the exercise of moral as well as political influence on the minds of the people. The President's correspondents were saying to him: "We want to know what Mr. Taft's religion is." But this, answered Mr. Roosevelt, is his private affair; it is a matter between him and his Maker, which concerns his innermost conscience; to demand from him a public declaration of his faith with the threat of voting against him is equivalent to denying the first principles of our government, which guarantees full religious liberty and the right of every citizen to conduct himself as his conscience dictates. Controversy regarding the religion of a candidate must not be allowed to embitter and disturb political elections. "Abraham Lincoln was not a member of any church," the President observed. And about Lincoln, so simple and yet so great, we may note here that, although he was not a member of any specific denomination, he generally attended the Presbyterian divine service at Springfield and in Washington.[14] And in one of his memorable speeches he spoke as follows of the Heavenly Father who is the Father of all peoples:

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[13] Attempts are being made here and there to revive them, but they will not prevail.

> Both [contending parties] read the same Bible and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God's assistance in earning their bread from the sweat of other men's brows; but let us not judge, that we be not judged. The prayer of both could not be answered. The prayer of neither has been answered fully. The Almighty has His own purpose. Woe unto the world because of offenses, for it must needs be that offenses come, but woe to that man by whom the offense cometh. . . . Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. Yet if God wills that it continue until all the wealth piled up by the bondsman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid for by another drawn with the sword, as was said three thousand years ago, so, still it must be said, that the judgments of the Lord are true and righteous altogether.

How much moral beauty, how much oratorical power and firm kindness find expression in this speech, and what man enrolled in a particular church could be said to be more of a believer than Lincoln was?

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[14] See the work of Philip Schaff, *The American Idea of Religious Liberty and its Practical Effects*, p. 439.

But, taking up again the thread of our discourse, it is not true, continues Roosevelt, that Mr. Taft's wife and brother are Catholics. But even if they were Catholics, and Mr. Taft himself were a Catholic, what of it? How could the citizens of the United States allow themselves to be influenced by such petty bigotry? How could they refuse their vote to a worthy candidate through antipathy to his religious faith? The President would not hesitate to denounce severely any Catholic who would refuse to vote for a Protestant, and he turns the same reproach on any Protestant who would refuse to vote for a Catholic. He is happy that it has been his lot to encounter in his political experiences many examples of Catholics who have supported Protestants for office, and of Protestants elected by Catholics. Among the members of Congress, he continues, he knew a Jew elected in a district in which there were no other Jews. This Republic of ours will last for many centuries. Without doubt there will be among its presidents Protestants, Catholics, and very probably at some time also Jews. Roosevelt is happy to have in his cabinet, seated side by side, Catholic, Protestant and Jewish members, every one of whom has been chosen not by a criterion of creed but by reason of his character and ability. These are the criteria that must guide the citizens of the United States in making their choice in nominations and elections: ability, character, and not religious affiliation or preference!

One breathes freely in reading documents of such serene clarity and moral loftiness, and we rejoice on our part that the European country which approaches nearest to the ideas set forth by President Roosevelt is Italy.

The example of the United States of America cannot remain unique. The contact of the Protestant spirit with Catholic countries less progressive, such as the Spanish and Portuguese states of America, was bound to have beneficial effects. Religious liberty followed the American flag into Cuba and the Philippines, won from the domination of Spain. The Spanish state, the fanatical protector of the Catholic faith and of an intolerance which was not sanctioned by the Vatican, gave way to the absolute separation of the state from the dominating church.[15]

[15] Speaking of Spain, I beg to recall here a letter which I wrote to Señor Moret, President of the Liberal Council, a truly eminent man who died too soon for the political greatness of his country. Señor Moret answered me in an entirely favorable manner:

Rome, January 22, 1910.

Dear Friend:

I have sent you my book, *Liberty of Conscience and of Science*, and I recommend it to your generous attention. It contains half a century of my reflections. I began to reflect on this question, which is *our thought and our pride*, when I was twenty years old. This book has perhaps contributed to the improvement of political and religious opinion in Italy, to exposing the falsity of clericalism and anti-clericalism, and to ennobling conscience. You ought to have it read in Spanish-speaking countries, which need to be freed from blind superstitions and empty unbelief.

Affectionate greetings,

Luigi Luzzatti.

The United States idea spread to Mexico, to Brazil, to the republic of Ecuador, and in countries where the Inquisition once flourished freedom of belief is to-day triumphant. The separation of church and state in Mexico was made to the detriment of the Catholic church and in Brazil in its favor, but the effects appeared everywhere to be entirely salutary. Although in Mexico the confiscation, or "incameramente" in the Latin usage of mortmain have been very severe, just as the acts against religious corporations were severe, religious freedom in that country has renewed the influence of the Catholic faith. The Catholic *Year-Book of the Church* for 1899 [16] can say with assurances that Catholicism in Mexico is *in full vernal splendor.* The religious congregations revived with the liberty of association, and the donations of the faithful largely made up for the confiscated property and the withdrawal of state support.

The Year-Book observes that in Mexico, as in all countries of Masonic régime, education is secular, free, compulsory, neutral and therefore atheistic. But the Catholics, thus distrusting lay education, took advantage of the constitutional privilege and founded denominational schools in so far as their financial means permitted.

We see then that in those countries of Spanish and Portuguese religious bent liberty has produced effects worthy of note. A religion which meets with opposition defends itself, is fortified by struggle, and purifies itself.

Who could have believed that such a rapid triumph of religious liberty in the republic of Ecuador was possible? In that country an agreement signed on the thirtieth of March, 1872, between the Vatican and the state, provided in its first article

> that the Roman Catholic religion will continue to be the only religion of the republic of Ecuador and it will be maintained perpetually with all the rights and the prerogatives which it must enjoy according to the law of God and canonical decrees. No other creed will therefore be tolerated, nor any association condemned by the church. The education of youth (Art. 3) in universities, in colleges, in public and private schools, will be fully in accord with the doctrine of the Catholic faith. The Pope (Art. 5) reserves for himself the power of corresponding directly with the clergy and with the faithful of Ecuador, and acquires for the Church (Art. 19) the right to purchase and own real property. The Pope permits the state (Art. 9) to impose taxes upon the members of the clergy and upon ecclesiastical property.

But this same republic of Ecuador, a theocracy during all the previous years of its history, established religious freedom by a law of October 12, 1904, making the state secular. It is probable that here as in Mexico religious freedom is good for all concerned—government, church, believers and unbelievers.

The fact is that by such measures, while Europe is still so far from the separation of church and state, all the Americas, in spite of atavistic relapses, are gradually adapting themselves to this principle, whether Protestants or Catholics predominate in number; and they consider religious freedom the ultimate canon of civil wisdom. But since even in the United States one cannot assert the unbroken triumph of liberty, who can take it upon himself to make such an affirmation when he is speaking of the republics of Latin America, so changeable in their political government and rules of conduct?

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[16] Ch. Egremont, *L'Année de l'Eglise, 1899,* Paris, Lecoffre. But no one in heaven or earth can foresee the future as far as Mexico is concerned.

III

Religious freedom was to triumph in Asia (in India and Japan) with all the effects of separation, by virtue of English activity. This is little known by writers who do not, as a rule, penetrate deeply into such difficult researches. But several pages of this book are devoted to the attempt to prove the *Buddhistic* origin of religious liberty and the superiority of Asia, in both ancient and modern times, in conceiving and applying the principle.

Buddha is not a god; he appears in India as the redeemer of souls; those who do not follow him do not offend the Celestial Father, though they fail to redeem themselves from their sorrows. Hence religious freedom is the essential condition of such a philosophical faith, which does not threaten divine punishment and neither chastises nor exalts in a future life.

Elsewhere in this book we show also that the greatest religious freedom existed in Japan at the time of its discovery by Europeans. This freedom was taken away when the emperor suspected that the Christians—and especially the Catholics—thought more of political conquest than of the redemption of souls.[1]

Even before constitutional monarchy was introduced into Japan on the eleventh of February, 1889, it was declared in a decree of 1875 that the Shintoist and Buddhist priests would lose their standing as state officials; and that only the ecclesiastical authorities at the head of the two religions had the power of appointing and installing the heads of the different temples. Fourteen years later, Article 28 of the new constitution declared that "the Japanese shall enjoy liberty of religious belief in everything that is not prejudicial to peace and order, nor opposed to their duties as subjects." Following this an intense Catholic and Protestant propaganda spread to every corner of Japan, continuing the pioneer work of courageous missionaries. There is already a whole native and foreign literature on this missionary enterprise.[2]

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[1] This does not detract from the respect and great tolerance of the Japanese government toward the Christian churches, as illustrated by the following episode: While the delegates of Russia and Japan who had met at Portsmouth came to an understanding, after the cessation of hostilities between the two countries, the populace in Tokyo rioted because the conditions stipulated for Japan were considered too onerous. The mob also turned against some of the Christian churches, causing serious damage to them. But the Buddhistic associations, heirs of the thought of Asoka, instead of rejoicing at the misfortune of foreign churches, wished to contribute largely to the expense of repairs and rebuilding. And all this they did with great simplicity, since, according to them, humanitarian sentiment ought to rise above religious quarrels.

Going back now to the main point, the separation of church and state in Japan, it should be observed that with the abolition of the administrative office of the Shintoist and Buddhist religions the priest ceased to receive state remuneration. The Emperor himself renounced celestial honors. Thus the light of freedom for all religions crossed the Pacific and shone where it had had its origin, in Buddhism.

In 1875, just at the time of these great reforms in spiritual matters, Neeshima, the noted missionary of Christianity, returned from America to Japan to found a theological school. Through such measures the Protestants, who seem to predominate, the Catholic missionaries, and also the Greeks, took advantage of religious liberty and undertook to convert to Christianity the upper and lower classes of Japanese society, thus following in the footsteps of the Christian apostles of the ancient Roman Empire. Two other forces, however—opposite in character but having a common purpose—agnosticism and superstitious reaction—applied themselves to the task of opposing the effort to Christianize Japan.

Buddhism led the anti-Christian feeling, and young Buddhists who had studied European and American philosophy took the field against Christianity, ostentatiously holding in their hands the works of Draper, Renan and Spencer. It was under such influence, associating agnostic unbelief with the memory of ancient creeds, that the imperial edict on the National Code of Lay Morality was issued. But these agitations have gradually been extinguished through the Buddhistic nature of Japanese thought, combined with the traditions of religious freedom. In 1896 there were friendly controversies between able intellectual leaders of Buddhism and Christianity, which concluded with the wish that the followers of Christ and Buddha could join forces against their common opponents, the propagators of unbelief.[3]

Japan's religious attitude is at this moment at a critical stage. The most diverse elements, as Professor Anesaki testifies, are seething in a struggle against ancient prejudice; the Buddhists of the younger generation are laboring eagerly to restore the cult of their Master, while the Christians explore all methods and means that may adapt their religion to the characteristic sentiments and ideals of the Japanese nation. The problems are complex, the controversies grave, but the light of freedom shines upon the spiritual conflicts and is perhaps bringing a new era for the religious soul of the great Asiatic empire.

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[2] For Protestantism, among other works, the following may be consulted: Raoul Allier, *Le protestantisme au Japon* (1859-1907), Felix Alcan, 1908. See also, Roly Chanoine Léon, *Le Christianisme et l'Extrème Orient,* Part I, *Missions catholiques de l'Inde, de l'Indo-Chine, de la Chine;* Part II, *Missions catholiques du Japon,* Paris, P. Lethilleux.

[3] We take these valuable data from a work full of learned and significant observations written in Tokyo in 1907 by Mr. Anesaki Masahar, professor of the science of religion. I had the good fortune to meet Professor Anesaki in Rome and in conversation with him was able to obtain important information of which I avail myself in this introduction.

However, before the time of this truce a bitter struggle between Christianity and the ancient Japanese spirit could not fail to arise. On October 13, 1890, the Mikado promulgated an imperial order on moral instruction in the schools to replace religious instruction, which was suppressed. This edict for compulsory lay moral teaching, which was a direct consequence of secular government, should be known by reason of its importance and its originality:

> Our ancestors furnished broad foundations to the state, and virtue was deeply rooted in them. Our subjects have developed them and brought them to perfection through great loyalty and filial affection. Such is the essence of the national policy, such is the true principle of our system of education.
>
> O beloved subjects, be devoted sons and daughters, affectionate brothers, loving husbands and wives and faithful friends; conduct yourselves with modesty and with kindness toward all. Develop your intellectual faculties; fortify your moral attitude, seeking knowledge and exercising a profession. In addition, work for the general welfare; devote yourselves to public affairs; respect the national constitution; obey the laws of the country, and in case of necessity sacrifice yourselves to your country.
>
> In such manner you offer a strong support to our imperial monarchy, which is as eternal as the universe. Then you will be not only our most loyal subjects, but men and women capable of manifesting the noble character of your forebears.
>
> Such is the testament left to us by our predecessors, which must be observed with equal strictness by their descendants.
>
> These principles are perfect for all centuries and of universal application. It is our desire to impress them in our hearts in common with you, our beloved subjects, to the end that we may forever possess similar virtues.

The exclusion of religious instruction from the free schools, that is to say the exclusion of Christian instruction, and the substitution of lay ethics of a patriotic nature, greatly offended the Protestant and Catholic Japanese. The law of 1899 imposed compulsory education. Every child was to receive instruction in a public or free school recognized by the state, and a circular issued in that year said, "Since it is essential that education be independent of religion, there must not be any religious instruction or any religious ceremony in the public schools, nor in those schools which are under the supervision of the state."

The Protestants gathered at Tokyo (Japanese Protestants, not European) to protest, in the name of the religious freedom guaranteed by the constitution, against these government measures. They had no objections to the regulations introduced in the state schools, supported by public funds; but the case of private schools, supported by private contributions, was quite different.

The Protestants said: "We are convinced that for a Christian school, founded upon Christian principles and sustained by the gifts and prayers of the people, it would be a breach of trust to exclude Christianity from its guiding rules and from its life."

The minister of the government insisted in the beginning—still declaring he was in favor of religious freedom—that, in his opinion, religion ought to be distinct from ethics in the school system. And he merely consented that the Christian schools in which it was intended that religion should be taught should lose their official character, that is to say that they should lose the advantage of deferred military service and some other benefits.

Japan is perhaps the only country outside of France where the experiment of secular moral instruction in the public schools has been made and still continues; and since only the torch of observation can shed light upon such delicate problems it will be necessary to explore the effects, in so far as distance and diversity of customs allow.[4]

It is certain that the Christian churches cannot conceive of a school without religious instruction, because they cannot conceive of a morality which does not rest upon faith. We must not, therefore, wonder that the Japanese Christians persisted in demanding the right to teach their faith in the free schools without losing the benefit of delayed military service and promotion of their students into the higher grade schools. The Japanese government, by a law enacted on January 25, 1904, which abrogated the law of August 3, 1899, permitted the Christian religion in its various denominational forms to be taught in private schools recognized by the state, granting to these schools advantages and favors equal to those of the state schools. In the public schools, instruction in secular ethics remained intact. In Japan fairness of treatment was raised to such a point that three Christian theological institutions, designed to prepare students for the ministry, were assimilated to the professional schools of the state, with equal privileges.

The Japanese victory in the war against Russia did not excite the spirit of nationalism, but tempered and purified it; and if the public schools supported by the government exclude religious instruction, native or foreign, liberty of religious instruction is regaining its sovereignty in the private schools, supported by voluntary contributions from the faithful. These private primary schools, under the supervision of the state, prepare their students for the institutions of higher education in the same way as do the public schools, and their pupils do not lose any special benefit, as has been noted above.

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[4] The great controversy over moral instruction in primary schools is going on everywhere. A notable work which should be consulted is, *Moral Instruction and Training School,* London, Longmans, 1908. It is the result of an extensive inquiry, instituted by a free English association and summarized by Professor Sadlers, who holds the Chair of History and Pedagogy in the University of Manchester. The inquiry extends to the principal countries, except Italy. Besides moral instruction, *moral habit* is also investigated. Morality is an exercise more than a doctrine.

With such provisions, which now seem definitive, constitutional Japan combines laicism with religious freedom, traces the just boundaries of both, and, without knowing and without purposing it, is teaching the European states the just applications of public law. And since Japan is destined to extend her moral and political hegemony over the whole of Asia, which is full of Buddhistic conceptions that nourish religious freedom, as is made clear in other sections of this volume, we have cause to rejoice at the increasing influence of that empire in Asia and in the world. The force of ideas is superior to the force of arms, and if the former joins with the latter they will achieve fullness of power.

India, governed by the English, assumed before Japan did an attitude of absolute religious neutrality, as will be demonstrated. But we challenge the truth of the assertion made by the eminent scholar Lyall, in his speech which opened the Congress for the history of religion,[5] that the constitutional neutrality of the English government in India is unique in Asia and almost so in Europe.

We have in fact sought to trace clearly the great movement for religious freedom in Europe; and it is not possible, without doing injustice, to fail to recognize the superior position in this matter which has been taken in Asia by the Japanese government. This, however, does not diminish the merit of the English government in India as regards precedence and clear rules of separation. The English government ignores all religions from an administrative standpoint and interferes only in cases of acts contrary to civilization and decency. Public education, in whatever concerns the state, is entirely secular; the government leaves instruction in the different dogmas and in ethics to the various religions.

The political power of the British Empire even in the farthest confines of India is available for the defense of all faiths, which thus develop freely—a situation that recalls the glorious times of the great king Asoka.[6]

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[5] This speech is reproduced in the *London Times* of September 16, 1908. Mr. Lyall declares that, in the Asiatic states, "the supervision of religious affairs is an integral attribute of sovereignty which no other government, except the English government in India, has ever ventured to abandon." The present studies, which trace religious liberty in Asia from Buddha to modern Japan, prove the fundamental error of Mr. Lyall's statement.

[6] When the Japanese translation of my book *Liberty of Conscience and of Science* was published in 1915 by members of the faculty of the University of Tokyo, at the request of the eminent Professor Huesaki, Professor Munetada Suzuki advised me in his preface that my praise of the great liberality of Japanese institutions was not entirely deserved, since his country had not as yet reached the perfect ideal of freedom in religious matters. "The government," he observes, "treats Shintoism and Buddhism in a different way from Christianity, and while it protects the latter and leaves it full liberty of action, it interferes in matters concerning the two former creeds. Christianity is placed under the Department of the Interior; Shintoism and Buddhism under the Department of Education." In this preface Professor Suzuki observed further that the government was to present to Parliament a new proposal for a national law of religion. And in fact this was done afterwards.

I accepted these observations at the time because, made as they were by men so eminent, I was certain that they would have an influence upon the progress of religious freedom.

Just as the United States has led the advance of religious freedom in the Americas, and Japan and India in Asia, so France, with her latest act separating church and state has become the center of such ideas in Europe. A great opportunity was offered to the French nation to take a courageous and history-making step toward freedom through separation. To abolish the concordat, which like all such agreements had the intrinsic defect noticed by Cavour, that both church and state pledge themselves to that which by reason of their essential nature they cannot grant, terminating it because international comity (*comitas gentium*) is useful in these decisive measures; to reproduce the type of legislation found in the great American Republic, avoiding a struggle which would divide the citizens of the same country into two enemy camps—such were the brilliant achievements expected of the reforming spirit of France.

If the vicissitudes through which the idea of religious freedom has passed in the United States, notably in the state of New York, had been studied better; if the long and fruitful struggle between that government and legislature on the one side and the Catholic church on the other—ending in a just compromise—had been known in its details; if the example of Mexico—which M. Briand, the eminent statesman in charge of the report of the committee, had before him—had convinced the French that the churches, and particularly the Catholic church, cannot be overthrown nor weakened by violence: then the bill would have been accepted even by the opponents of the principle of separation.

The beginning of the debate seemed favorable, when M. Briand started to combat, with forceful arguments, a counter-project of Deputy Allard, who accused the committee of nothing less than trying to preserve the unity of the Catholic church, "*et de n'être pas conçu de telle façon que le bloc romain sorte du projet de loi brisé et emietté.*" Deputy Allard proposed that the funds dedicated to the public exercise of religion be confiscated, and the church properties be let out, for a period of not more than ten years, to religious associations. But the rent should not be less than five per cent of the value of the building, so that, as M. Briand observed, the annual rent for the church of Notre Dame alone would be at least one million francs. Furthermore, observed M. Briand, under the system advocated by Deputy Allard, the associations, deprived of state subsidies, deprived of the patrimony essential to public institutions, would be compelled to give up the churches because it would be impossible for them to support the burden of the rent.

It would take too long to narrate how it happened that M. Briand's just considerations in opposing the Allard counter-project succeeded (a little through everybody's fault) in applying in fact the scheme of confiscation desired by Deputy Allard against the Catholic church, with the exception that the church edifices might still be used, under precarious conditions, by the church. But the fact is that after the Vatican's refusal to accept the law of separation, measures of reprisal taken by the French government led it partially to that harsh attitude which M. Briand, in his noble answer to M. Allard's proposals, considered neither possible nor just. Briand fought Allard's plan to liquidate ecclesiastical property through state machinery and let out such property to "religious associations," yet as Prime Minister he was compelled to do what he had combated as a member of the committee reporting on the law!

On the seventeenth of April, 1905, Briand said to the Chamber, hurling the darts of his eloquence against Deputy Allard's system: "By proclaiming freedom of conscience and pledging itself to guarantee the free practice of religion the republic assumes a duty, that of rendering the continuance of the church possible. Now this guarantee would be denied to the church by the adoption of M. Allard's amendment." [7]

In view of this favorable attitude of the minister and of the great majority of Parliament, how did it happen that the Catholics, who had coöperated in the victory involved in modifying Article 4, refused afterwards to accept the law, especially, it seems, on account of Article 8?

Would Article 4 embody their general rules in constituting "religious associations?" Or, restricting our question to Catholicism, would ecclesiastical property be granted to "religious associations" which, while declaring themselves to be Catholic, would not be accepted as such by the church of Rome? Here Briand, answering M. Ribot, who wished this point made clear, said clearly and plainly: "We have never had the intention of taking away Catholic church property in order to offer it as a prize to schism; this would be an act of disloyalty which is very far from our thought." (Prolonged applause from the centre and the right.)

But Deputy Ribot, still insisting on this somber point, continued: "Should the spiritual power decide that a priest is excluded from Catholic communion and is no longer in communion with his bishop, and consequently not with the Pope, on that day the property involved must be delivered to the association that would align itself with that priest: the property ought to remain in the hands of the faithful who gather around the new priest designated by the bishop and in communion with him." (Applause at the centre and on several benches of the left.)

Briand, reporting for the committee, interrupted as follows: "But, gentlemen, I have never said anything contrary to this interpretation." (Applause at the centre, at the right, and on several benches of the left.)

Article 4 of the bill,[8] finally approved after this debate, recognized the organization of the Catholic church, with its hierarchy, and it seems certain that, as happened in the United States, the law would have maintained ecclesiastical discipline in case of conflict. Litigation might not be wanting, as happened in Philadelphia and New York; but obviously, interpreting the law as construed in the debate, the church would not fail to obtain certain victory, placing its adversaries in the dilemma of respecting religious freedom or intentionally provoking a schism.

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[7] This amendment provided that ecclesiastical property was to be sold by the state and the proceeds assigned to a fund for old age pensions for workers and peasants.

[8] Art. 4. "*Dans le délai d'un an à partir de la promulgation de la présente loi, les biens mobiliers et immobiliers des menses fabriqués, conseils presbytéraux, consistoires et autres établissements publics du culte seront, avec toutes les charges et obligations qui les grèvent et avec leur affectation spéciale, transférés par les représentants légaux de ces établissements aux associations qui en se conformant aux règles d'organisation générale du culte dont elles se proposent d'assurer l'exercice, se seront légalement formées suivant les prescriptions de l'Art. 19, pour l'exercice de ce culte dans les anciennes circonscriptions des dits établissements.*"

Article 4 was a victory for the Catholics, and such it was deemed at the time, to judge by the dissatisfaction of several radicals and the polemics engaged in during the Easter recess between Jaures and the newspaper *Le Temps* on the one side and Clemenceau and Pelletan on the other. The latter contestants wanted Article 4 to be made consistent with Article 8, considering the respect paid to the Catholic hierarchy in Article 4 to be dangerous.

Article 8 makes provision for a case arising when the same ecclesiastical property may be claimed by several associations constituted for the practice of the same creed. In that case the question would be submitted to the Council of State which, acting in a judicial capacity, would have jurisdiction to decide, taking into consideration all the circumstances of fact. Why the Council of State and not the ordinary courts of justice?

This time, too, Briand placed the question clearly before the Chamber of Deputies when he said: "Either we must take back the ecclesiastical property, if you decide that it belongs to the State; or it must be given to the religious associations if you decide that it must remain at their disposal. This must be done loyally without mental reservation, and taking into consideration a state of affairs which we must neither ignore nor modify." (Applause at the centre, at the right and in many benches of the left and extreme left.)

M. Ribot, a statesman who advances clear, simple and disinterested ideas in methodical style, admitted that after the first religious associations were established in accord with the Catholic hierarchy, the associations would eventually have developed freely under the rules of common law, before the ordinary courts of justice, just as in the United States. M. Briand did not dissent from this view. He too recognized that in case of disagreement among different religious associations the courts of justice ought to interpret freely the rules and canonical guarantees invoked by those who were interested in the question.

The anticlerical members of the French parliament protested against these concessions to clericalism, as they called them, without understanding that two procedures are possible in such a matter: either civil authority interferes in one way or another in ecclesiastical questions (appointments and property) or else religious freedom must prevail; and in the latter case the rules of canonical order and of hierarchy must be examined by the tribunals and followed in their juridical conclusions.

M. Briand had said that full power should be given to the Catholic hierarchy, at present in absolute command of these ecclesiastical institutions. But afterwards, after the Easter recess and when the minds of the deputies had become embittered, he qualified his utterances a little with great dexterity.

M. Pelletan, *l'enfant terrible* of French democracy, brought before the deputies the case of the *Curé* Roucaud, who had been transferred by his bishop because he was a republican. What would happen in such a case under Articles 4, 6, 8? "This *curé*," said Briand, "was, as it seems, a good priest who fulfilled faithfully the duties of his charge; but . . . he was a republican, and therefore (this is a thing that may happen) displeased his bishop. The latter transferred him, and Father Roucaud in his new parish met again with episcopal hostility, always for the same crime of republican opinions." And Briand concluded, amid the applause of the deputies: "Since he remained a priest, according to the rules of his religious organization, the association constituted around him will keep its ecclesiastical property. . . . Episcopal will, which serves a political grudge, will not suffice to break a curate who is in full agreement with the members of his parish."

Francis de Pressensé recalled that a New York curate had been suspended by his bishop a few years before for his excessive ardor in favor of the Irish cause. The curate appealed to Rome against the disciplinary measure of which he was the victim, and the civil association of the church which employed him in the parish resorted in its turn to the civil courts.

Now this ecclesiastic, maintained temporarily in office by the New York court, won his case in Rome, and Father Roucaud could win it in the same way. All these were just observations, although one may be permitted to doubt the accuracy of M. de Pressensé's statement of the New York case, because, as we have seen, in the state of New York the administrative board of the church is composed of the archbishop, the vicar-general, the parish priest and two laymen selected by the three before mentioned. How could it be that the civil administration of a church would protest against an act of the bishop, if the latter were a part of it and had it under his control? French parliamentarians do not appear to have studied the procedure of the state of New York thoroughly. The fact however is that Article 8 removed jurisdiction over ecclesiastical property from the ordinary courts of justice and vested it in the Council of State. This would never have been possible in the United States, and it became a powerful argument in the hands of those who desired the Vatican to forbid French Catholics to accept the law of separation.

But from the point of view of constitutional law one must deeply regret that Briand was more just and impartial before Easter than after April, 1905. Although a rationalist and an agnostic he felt and knew that a Catholic church different from what it is cannot be created in the name of religious freedom. And he knew the result of the struggle against the church in New York, in Germany and in Switzerland. Since he possessed authority and ability, he should have faced every prejudice in order to give the great experiment of separation the conditions favorable to a prosperous development. It is true that the law of December 9, 1905, applies also to French Jews and Protestants, but the experiment had no value without the decisive example of the Catholic church.[9] A French statesman of great authority and Demosthenian eloquence, opposed to Catholicism, confessed to me that he shuddered at the thought that the Catholic church in France would accept the law of separation, which would have given it irresistible power, with the pecuniary means placed at its disposal and the dictatorship of the Vatican. On the other hand, I have heard eminent men in the Catholic ranks complain that the Vatican prevented the application of the law of separation in France.

I think that if M. Briand had put into effect after April, 1905, the truly liberal ideas which he had expressed before, a great experiment could have been made and the church, liberated from its Gallican and Napoleonic chains and not impoverished (just as happened in the United States) would have purified and refined itself. I have taken the liberty to answer thus the eminent statesman who feared the acceptance of the law of December 9, 1905. To-day the French Catholic church is more than ever under the authority of the Vatican and the worshipers are more than ever constrained by the iron discipline of the hierarchy. And all this cannot be prevented because—it must be said to the honor of France and human dignity—freedom of conscience and of religion cannot be taken away.

Those who believe that they can conquer Catholicism by starving it are mistaken. All the examples of the past—that of Mexico for instance—testify to this truth with entire conclusiveness! And we may add that in a period of strong materialism, when all, individuals and communities, take as much money as they can find, we are filled with admiration at the example of a great church which refuses hundreds of millions in order that it may keep intact its principles, saying firmly, *tecum sit pecunia tua.* Even though such cases of refusal of wealth may be scientifically and politically wrong, they are still admirable![10]

France shows us in her history great errors, great crimes of a political and religious nature, to give proof afterwards of splendid and complete reparation! From the massacre of St. Bartholomew's Day Eve to Henry IV; from the bloody revolutionary days of Paris and the *Noyades* on the Loire to the Napoleonic discipline; from the trials and condemnation of

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[9] See the *Revue des Institutions Cultuelles, publiée sous la direction de M. Georges Lagresille, Paris; A. Pedone, Editeur,* begun in 1906 and containing all the documents accompanied by important studies of this new institution. This publication is deserving of the highest praise. The organization of the Calvinistic church in France under the law of separation is admirable. See *Actes et Décisions du Synode national des Eglises réformées évangeliques de France, tenu à Montpellier du 6 au 17 juin 1906,* and the acts and decisions of the Mazamet Convention (June 23 and 26, 1908). The churches now provide all their own expenses, overcoming all difficulties.

[10] When Napoleon I offered a large pension to the Pope, who was his prisoner, the latter answered that he had reckoned up his wants and that fifteen sous a day were sufficient for his support.

Dreyfus to his reinstatement in the army; from the laws regarding religious liberty, essentially good but rejected by the Pope and the high clergy of France, to the *Enciclica Maximam Gratissimamque* of January 18, 1924, with which Pope Pius XI has solemnly authorized the constitution of the diocesan assemblies with the purpose of providing for the expenses of the church, and has expressed the desire that the bishops should found in their dioceses institutions of this kind, which would "help to render more stable, and therefore better, the juridical status of the Catholic church in France." [11]

In such a way, from the law of December 9, 1905, which by a series of clever interpretations and provisions suppressed the public institutions heretofore connected with the state, we have come to the solemn words of the Pontiff. Religious freedom is associated with canonical associations, lawful administrators of funds capable of supporting the Catholic church in France, leaving intact the hierarchical order which unites the Pope with the high clergy, as in the United States. But will France succeed in respecting the religious freedom of the Catholic church, or will that freedom suffer loss through the hampering influence of political passions and intrigues? That is the question.

We have read the news of the Clarisse expulsion of Evian-les-Bains [12] (six old nuns, nearly all ill), together with an eloquent protest from the bishop. Is it possible that a man with the lofty spiritual mind possessed by M. Herriot can tolerate these deviations from religious peace?

Before narrating what happened in Switzerland under the influence of France I wish to set forth briefly the corresponding Italian events.

The organic cell of religious liberty, from which the full separation of church and state emerges, consists, as we have seen, of the religious associations. The correct regulation of their organization and activities is the difficult task of all states which wish to realize religious freedom, passing from a régime of privilege to one of independence. We must not, therefore, wonder if the framers of the Law of Guarantees understood that the solution contained in Article 16, which preserved the *exequatur* and the royal *placet* for the investiture of temporal power, was temporary and in open contrast with the spirit of the second part, which was based upon the principle of separation. But in order not to take away from the state, in a period of struggle, the supreme defense contained in Article 16, and in order to leave open the way to liberty, it was promised by Article 18 that in a subsequent law, the reorganization, preservation and administration of ecclesiastical property in the kingdom would be provided for.

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[11] In the *Compte-Rendu* of the French Academy of Moral and Political Science of July-August, 1924, Hébrard de Villeneuve presents a synthetic but very clear study of the *Associations Diocésaines*.

[12] As is known, the majority of the people of Alsace-Lorraine desire continuation of the relation existing between the Holy See and the German government. To this we may add the controversy, in which all Catholic France is interested, as to whether the French ambassador to the Vatican must be permanently withdrawn. Here too we are still far from that religious peace which, it is permitted to hope, may finally prevail, to reënforce civil peace as well!

But in the city of Rome and in the suburban sees the *exequatur* and the royal *placet* were abolished as regards ecclesiastical property and the provision of major and minor benefices, in the same way as ecclesiastical authority was permitted to be conferred on foreigners.[13] However, even in Rome and in the suburban sees, the provisions of the civil law regarding the creation and existence of ecclesiastical institutions and the alienation of their property remained intact.

In these legislative provisions we see clear traces of the compromise made between those men who wanted to extend the powers granted to the Holy See in Rome to the entire kingdom, and the partisans of state supremacy over the church, who supported the ancient force of the *exequatur* and royal *placet*.

The provisions of the second part are nothing but a compromise, as a new organization for the administration of property by the religious associations was expected.

As far back as 1864 Minister of Justice Pisanelli had introduced a bill for the suppression of religious corporations and the disposition of ecclesiastical property, and the investigating committee, which included persons distinguished for their learning and patriotism,[14] had introduced some changes in the organization of diocesan and parochial associations.

Signor Corsi, in his report of February, 1865, reviewed the various possible relations between Church and State: state subordination to the church; church subordination to the state; independence and separation of state and church; distinctiveness of state and church one from the other without absolute separation, each living freely in its respective sphere and province in such a way that the church would give guarantees of security for and free practice of the laws, while the state on its part would give the church that support which is needed by every public institution. It was the last type of relation that Signor Corsi favored:

> This type seems to reconcile true liberty with that breadth of vision that is needed in the treatment of such a delicate matter. . . . The state ought not to intrude in the religious interests of a special creed, as the beliefs of its citizens differ, nor could it reduce them to uniformity of principle. The state possesses only the right to punish such offenses as the practice of a creed may commit against the individual or the social body. Free religions in a state open the field to the domination of that one which is founded upon true principles. Free religions, permitted to criticize each other, prevent abuses by their respective ministers. The supervision over certain acts of the religious authority which in a different system the state exercises, is exerted by public opinion in the system of liberty,

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[13] Article 15: ". . . major or minor benefices can be conferred only upon citizens of the Kingdom, except in Rome and in the suburban sees."

[14] The committee was composed of Borgatti, Cordova, Mordini, Ugdulena, Biancheri, Giorgini, Ricasoli, Bettino, De Luca and Corsi.

> with the difference that the state's disapproval may be considered as an abuse of authority while from the disapproval of public opinion there is no appeal. Moreover, when the state grants special favor to one religion it places all the citizens of a different belief in an equivocal position.
>
> If the church is to be free the administration of its affairs must not be placed directly or indirectly in the hands of the state but must be autonomous. Who then should be the proprietor and curator of the church's property? Not the clergy, who have no title to the property, although they represent the chosen part of the congregation. The patrimony of the church has been founded for the welfare of the worshipers and accumulated for them; it therefore belongs only to the congregation and to those who compose it. Giving back its administration to the worshipers will not only be an act of justice but also an act of wisdom and of service to religion, because in this way the interests of the people will be bound up with those of the minister and vice versa.

How deeply did our elders study these grave problems and work out solutions for them! How frank they were in their optimism, which is the soul of constitutional freedom! This can be seen from the provisions of the articles quoted in the note below, which would have regulated the disposition of the property of the Catholic church and its civil administration. These articles were formulated six years before the Law of Guarantees, the authors of which had before them the text with its suggested innovations.[15]

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[15] Part I. The ownership of property and the civil administration of the Catholic church:

Art. 1. The ownership of property belonging to the Catholic church is recognized as vested in the Catholic community of the diocese and the parish, represented by a diocesan and parochial committee. This committee will have the exercise of every civil right relative to the local property which it controls.

Art. 2. The diocesan and parochial ecclesiastical property will be managed in a manner to be determined by law, by a committee elected by the entire male Catholic population over thirty years of age who have resided in the diocese or parish for at least six months. Until the constitution of the committee is definitely determined its functions will be entrusted to commissions appointed by the Minister of Creeds upon nomination of the municipal councils.

Art. 4. The income and property of the diocese and parish, when the present administrators cease to function, will be turned over to the ecclesiastical, diocesan and parochial bodies. All gifts and legacies made to a diocese or a parish, or to any person in charge of the same, will be regarded as made to the ecclesiastical body and the latter will take possession of it.

Art. 7. All expenses at present borne by the state or by the town, and those borne by administrations that have been superseded on any religious ground, will be borne by the diocese and parish.

Art. 12. All sums remaining from the income of the diocese or parish, after the requirements mentioned in Arts. 7, 8, 10, are satisfied, shall be used for a further increase in income for rectors and assistant rectors, for expenses of the cult, and for charity and education.

Art. 13. The provisions of the law of August 3, 1850, concerning the power of charity organizations to own, purchase and alienate property, are to be applied to the diocese or parish. The latter, however, must within one year convert into state bonds the property that may legally come to them.

In 1885 there was another public movement aiming to abolish the *exequatur* and the *placet.*

Marco Minghetti, in his book *Church and State*, had already expressed a desire for the elective principle, asking that the property of the church be entrusted to laymen, whose non-participation in church administration tended to make it ever more rigid and to remove from it that vivifying spirit which the people always possess. He also considered that the interference of the Minister of Justice was opposed to the idea of separation. These ideas, which the eminent statesman expounded in political speeches to his constituents, inspired a bill introduced by Pessina in 1885 and examined by a commission composed of deputies Bonghi, Borgatti, Canonico, Casorati, De Falco, Ferracciùi, Inghilleri, Lampertico, Mantellini, Minghetti, Peruzzi, Zanardelli and Cadorna, chairman.

All these Italian projects were sponsored by men not fully informed of the bitter struggle started by Catholicism in the United States against the lay associations of worshipers, just as the French statesmen did not possess an accurate knowledge of the valuable historical precedents furnished by Italian experience when they prepared their law of separation which created the *association cultuelles.*

The truth is that all the studies emanating from Italian statesmen concerning the organization of diocesan and parochial congregations, which were to manage and assign the property of the Catholic church, had to contend with the indifference of the worshipers, with the danger that unbelievers might seek to dominate the congregations, and with the opposition of the church, which—in Italy as well as in France—prefers a single Minister of the Creed who holds in his hands the *exequatur* and the royal *placet* to ten thousand ministers of the creed in the persons of the committees of church members, wavering, divided, and not possessed of a common general thought in religious matters.

Surely the church would accept the abolition of the *exequatur* and the *placet* and would be pleased to see religious freedom as it is practiced in Rome and in the suburban sees extended to the whole of Italy. But since, for reasons that all will understand, the Italian state cannot abolish the second part of Article 16 of the Law of Guarantees without establishing elective committees of church members or something similar—and since these would not be recognized by the Catholic church so long as ideas now prevailing influence it, and the church itself prefers the *exequatur* and the *placet* to the elective committees—it is clear that the time for modifying the Law of Guarantees so as to bring about absolute separation of church and state has not yet come. This will be a labor for a not distant future, with the certain triumph of justice and liberty.[16]

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[16] Monsignor Geremia Bonomelli, whose attitude was characterized by clear judgment and a lofty sense of justice, shared my hope and supported my views with his weighty approval. In one of his letters, under date of June, 1924, he wrote to me as follows: "Conciliation may be won speedily, but not with protocols, concordats, etc.,

Meanwhile the more one ponders over the Law of Guarantees, and makes it a subject for new studies, the more one is compelled to recognize the greatness of mind of those who conceived and framed it. Even the hesitation and reserve which are noted in Articles 16 and 18 are marks of statesmanlike prudence, and we find the proof of this in the fact that they served to save Italy from a religious struggle. Other states, large and small, had experienced such struggles, entering upon them cheerfully but repenting afterwards in disgraceful surrender. Only the Italian government remained sovereign and guarantor of the liberty which it concedes to religion without diminishing its prerogatives, avoiding at the same time those conflicts between church and state which, as history teaches, divide into opposing and irreconcilable camps the citizens of one country.

Constitutional liberty united with prudence in government has saved and will save Italy from the calamity of religious war; and, when the times improve, it will set her on the road to complete separation, the vital principles of which are contained in the second part of the Law of Guarantees.

French Switzerland, more than any other European state, has felt the effects of the debate in France. This applies especially to the two cantons of Neuchâtel and Geneva.[17] The canton of Neuchâtel did not accept separation; in the canton of Geneva it triumphed. The small cantons of Switzerland and the federal state which contains them are real laboratories of social, religious and political experiment, aiming at the progress of all communities of men. The space which they occupy on geographical maps seems imperceptible but they have a large place in the moral geography of nations.

A popular referendum held at Neuchâtel in January, 1907, rejected separation of church and state. Scrupulous socialists and believers for whom faith is not pure if it is not free—the first representing unbelief and the second a higher religious sense—found themselves united, without previous agreement, in the great battle; as a rule separation is desired alike by atheists, agnostics, philosophers, professors of constitutional law who love sincerity, and by earnest believers. Those who are indifferent, or who are accustomed to believe without deep investigation, or who dislike the necessity for voting and spending money which are involved in religious freedom—in short all those mediocre mortals who separate

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which are worth little. It will have to be tacit, true, real, imposed by the inexorable reality of things, and then it will be lasting. I cannot tell you how happy I am: I did not dare to hope for so much. It is really God who willed the present order in Italy: there have been faults and violations of rights, but how much less than in the formation of all the other European nations! . . ." Other letters addressed to me by Monsignor Bonomelli develop resolutely the thesis of religious freedom; I intend to speak of them in my *Memoirs* which will close the series of these publications.

[17] The spirit of separation is spreading now to the cantons of Basle and Berne, passing from the French to the German districts of Switzerland.

science and faith in two distinct and dissociated compartments—do not desire, consider, or seek, separation.

The voters of Neuchâtel were obstinate and the faithful were hampered by the company of the unfaithful, but those who were possessed by a religious ideal did not give up their dream. In fact, in places where there was only the official Protestant church select groups of believers had established an independent church. Both had the same belief, but the independent longed for a free God, not subsidized by the state. The very patrons of the official church perceived the coming of sacred freedom and had created a fund for achieving the triumph of the principle that worshipers have the right and the obligation to support their churches—that the faith that prays ought not to be separated from the faith that pays.

But the principle that was beaten in Neuchâtel triumphed splendidly in Geneva. The Genevan law of separation is superior in technical structure to all preceding laws of the same kind. If France had kept to the same principles—and she could have, because M. Fazy had proposed a similar law in 1880, which was rejected by popular referendum—then she would have compelled all creeds to recognize and accept them. Laws of this kind, like the Italian Law of Guarantees, must be so fair and noble that they will win acceptance even from those who would like to reject them. True liberty has a magnetic force; it attracts even the rebels!

The Geneva law, which was submitted to popular vote and ratified on the thirtieth of June, 1907 (with 7756 favorable votes and 6622 opposed), guarantees the freedom of the churches, forbids the state or the municipalities to subsidize them, and declares that no one may be compelled to contribute by taxation to the expenses of a religious body. Religion is cultivated and the different churches are organized by virtue of freedom of assembly and the right to found associations. Their members are obliged to obey the general law and the police regulations for their external activity. The churches may accept the rules of the federal code concerning obligations and acquire legal status with all resultant juridical consequences. They may constitute themselves as foundations with the authorization of the Great Council.

Never was religious freedom, in its spiritual implications and legal effects, outlined with greater clearness. It emerges from the right of assembly and association and places its material fortune under the jurisdiction of the law, common to all and liberal for all.

The question of the places of worship, of rectories and parsonages, is solved in the most friendly and conciliatory way. If these premises are owned by the towns the religious body which occupied them when the law was enacted—whether it be Protestant, National Catholic (the sect of old Catholics which had arisen at the time of the *Kulturkampf* in Germany and had spread to Geneva), or Roman Catholic—may continue to use them free.

The towns may transfer ownership of the buildings to the representatives of the church which enjoys their use without expense. In this case the transfer tax is not paid and the buildings must always be maintained for the same religious use. The approval of the Council of State is required in case of such transfers.

It will be seen that the Genevan law has followed the liberal provisions made in the United States at the time when the churches passed from a régime of privilege to one of freedom. Nor can it be imagined that matters can proceed in any other way, for there is an idealism in the domain of human affairs which does not permit places dedicated to worship and prayer to be transformed into houses for social gathering and worse. The state is not a business administration but a fraternal society, illumined by kindness, and free churches represent a community of souls.

The entire law of separation is contained in only four articles, since truly liberal laws are simple. Legislative measures that are rigidly binding tend to occupy a great space and lack clarity, because they multiply the exceptions to the rules. After the general provisions come a few transitory dispositions concerning the ecclesiastics of the two religious bodies heretofore subsidized by the State: Protestant and National Catholic. Roman Catholicism had been excluded from state subsidy, because Geneva too had its laws of intolerance against the Roman Catholic church, enacted in 1873,[18] and tried to oppose a reformed Catholicism to the Vatican.[19]

By the law of February 19, 1873, curates and vicars were appointed by the vote of the Catholic members of the congregation, who could also dismiss them. The bishop of the diocese, recognized by the state, was to obey a law contrary to the principles of the Catholic hierarchy, and this law prescribed nothing less than the forms and conditions of the election of curates and vicars, the oath which both were to take upon assuming office, and the contingencies and procedure of their possible removal. The law also fixed the salaries of ecclesiastics to be paid by the government of Geneva. It was the civil constitution of a hostile revolutionary Catholic clergy.[20]

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[18] See an excellent pamphlet on this subject: *Génève, les Catholiques et le Droit.*

[19] Only in the small canton of Appenzell the light of religious freedom was never dimmed. The new faith had not penetrated to those strong and simple shepherds from the outside through the influence of Vadian or Zwingli, but had come through the wishes of the inhabitants themselves, whose individualistic minds were already won over to the new ideas. Full of common sense and intellectual curiosity, they had since the beginning of the fourteenth century taken an interest in the great conflict which was to divide Christianity. In their *Landesgemeinde* they discussed theological questions, simony and the corruption of the clergy. When the Reformation penetrated into their country it found reformers among the clergy and the laymen. Then Zwingli, who was fond of "the little country beyond the Säntis," wished to gain it entirely for the new faith in order to build with it a bulwark for reform; but his plan did not succeed because the Appenzell men in power, deferential to the right of communities, left them free to decide which religion they intended to practice. Thus the town of Appenzell and a few towns of the Rhodes-Intérieures remained faithful to the religion of their forefathers.

In no part of Switzerland did the spirit of tolerance have such an admirable development as in the canton of Appenzell, where the Protestants, who form the majority of the population, never molested their Catholic fellow-countrymen. They sought, on the contrary, to reconcile Protestants and Catholics in other cantons, and they never took part in religious wars. And those Protestants in Appenzell (such as the Anabaptists) who were not united to the state church were never persecuted. Zwingli himself, who was less tolerant, could not help admiring the wisdom and conciliatory spirit of the inhabitants of Appenzell. (Consult *Die Reformation im Lande Appenzell,* Berne, Verlag Ernst Bircher, 1924.)

As always happens in such contingencies, the true Catholics, the Romans, resisted, and now they were happy to vote for the law of religious freedom, which put them on a par with the State Catholics who, deprived of their subsidy from the public treasury, will diminish in number little by little until they disappear.

The true Catholics obtained the restitution of the church of Notre Dame, which had been taken away from them in 1873 and delivered over to the Catholic dissenters. The historic church of St. Peter remained consecrated to the Protestant creed. And the fourth article of the law declared, with a blow at the principle of separation, that the state of Geneva would continue to dispose of that church for national ceremonies. It was a necessary inconsistency, a kind of concession to the history of Geneva, where political life was always connected with religious life. The worthy heir of a great Geneva family recently told me, expressing regret over the principle of separation, "We owe to our church the glory of not having become a French *sous-préfecture,* after having probably belonged to the Duchy of Savoy." [21]

Surely the union of the state with the Reformed Church has given Geneva a splendid history, and has permitted that Swiss city to hold a conspicuous place in the progress of mankind. Great citizens, assailed by an outburst of mystic idealism, declared Jesus Christ their Lord, and exaggerated the doctrine of grace to the limit of predestination, suppressing in God, arbiter of everything and of everybody, the principle of individual responsibility. And, like the men of the same faith in Scotland, they drew from the celestial hearth, by a sublime contradiction, a sense of practical and sound labor! Instead of becoming exalted, like the Buddhists, in the contemplation of the absolute, which is at the same time everything and nothingness, they improved and purified labor, developed credit based upon individual honesty, and obtained riches as a reward for their virtues.

It is not difficult to understand why there are many in this City of God who sigh for the ancient church, moral protector of the state. This

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[20] It would take too long to narrate the epic struggle between the Swiss confederation, the state of Geneva and the papal chancery under the pontificate of Pius IX. Father Hyacinthe was the *Döllinger* of the state of Geneva, while Monsignor Mermillad represented the Vatican. These dissenting Catholics accept the doctrine of the seven councils which are recognized as ecumenical by the Orient and the Occident, and they permit the marriage of the clergy. Their numbers diminished and they depended for the most part upon state subsidy, which was taken away in the triumph of religious independence.

[21] See Appendix III.

I know, because I am well acquainted through long experience with the intellectual temper of the men of Geneva. Without the Catholics, the radicals and the Socialists, separation would not have come. And I can understand how the mystic Genevans sigh for those times of austerity, in which church and state were different aspects of one power, intended to temper the character of the followers of Calvin, who drew from a profound idea of a powerful and inaccessible Christ the feeling of civic duty. Calvin willingly bent his head to the yoke of God in order to remove from his neck the yoke of Rome!

Grace and predestination were both spiritual lights of that intense faith, and political freedom was being fortified and trained to discipline by effect of divine servitude. But to-day the old state with its vices and its virtues is gone. To-day even in Geneva the Socialists, the radicals, and the agnostics may triumph in town and canton. How can one imagine *impious* rulers providing *religious piety?*

On the other hand, faith must feed upon frankness and sincerity. If separation should extinguish the Catholic dissenters, it will show that they lived only by the aid of the state. If it breaks Genevan Protestantism up into new branches, that will mean that state protection of the Genevan church did not permit many consciences to become clearly aware of new leanings.

Therefore students of constitutional law and lovers of sincerity in religion must follow with the greatest interest the experiment made by Geneva—since that of France is incomplete—and surely the indications are promising. On one side we have the National Protestant church which eagerly examines its own organization and foresees in its fundamental statute, which we have before us, the possibility of modifying the doctrine of the church. This is the destiny of religious freedom which must regulate the evolution of faith by the laws which give it concrete form. And since these are new ideas, we place in a footnote the text of that part of the law of separation which concerns the revision of the constitution of the church of Geneva and its dissolution.[22] On

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[22] *Titre VII. Revision de la Constitution. Dissolution. Art. 59. Toute proposition de modifier la Constitution de l'Eglise ne peut être soumise aux électeurs que si elle est appuyée soit par un tiers des électeurs du l'Eglise, soit part le tiers des conseils de paroisse, soit par les deux tiers des membres du Consistoire.*

Une fois cette condition remplie: 1. S'il ne s'agit que d'une modification partielle, le Consistoire doit, après avoir délibéré, la soumettre directement au vote des électeurs de l'Eglise. Pour qu'une modification constitutionnelle soit considérée comme acceptée il est nécessaire que les deux tiers des suffrages exprimés aient été affirmatifs. 2. S'il s'agit d'une demande de revision totale, le Consistoire devra porter la question d'opportunité de cette revision devant les électeurs en donnant son préavis.

Si la demande de revision totale réunit les trois quarts des suffrages valables, le Consistoire fera procéder à la nomination d'une assemblée constituante selon les formes usitées pour l'élection du Consistoire. Cette assemblée constitutante sera chargée d'élaborer une nouvelle constitution qui sera soumise aux électeurs. Pour que la nouvelle Constitution soit acceptée, il est nécessaire que la moitié au moins des électeurs inscrits ait pris part à la votation et que les deux tiers des suffrages exprimés aient été affirmatifs.

Art. 60. Toute proposition de dissoudre l'Eglise ne peut être soumise aux électeurs que si elle est appuyée soit par la moitié des électeurs de l'Eglise, soit par la moitié des conseils de paroisse, soit par les quatre cinquièmes des membres du Consistoire.

Une fois cette condition remplie, la question est soumise aux électeurs et la dissolu-

the other side the Catholics who follow the Roman church may now worship in the old church, forcibly taken away by a pseudo-Catholicism.

The Geneva separation is the victory of liberty and sincerity, before which believers, unbelievers, and statesmen must bow. It was the destiny of a small community to point out to the great states of Europe the luminous road of their spiritual future.

And England? The state which dissolved in 1869 the corporation of the Irish Protestant church and placed it in the healthy air of liberty alongside the Catholic church, can give us the unexpected spectacle of separation.

The reader will find in this volume new episodes of religious freedom about the church of Scotland which are worthy of attentive examination.

Lord Rosebery, then Premier, had tried in 1904-1905 to take away the state character of the Anglican church of Wales.[23]

The bill, vigorously fought by the clergy, was approved on its second reading by a majority of forty-four votes; but it fell with the fall of the Cabinet. Then, in February, 1907, a severe controversy agitated the House of Commons as to the abolition of the state character of the Anglican church in England and in Wales. That debate was impregnated with the spirit of the association, founded in 1844, for the liberation of religion from the patronage and control of the state, to which there is a counterpart in the organization for the defense of the church, founded in 1859.

Mr. Gladstone himself, who had become in his far-seeing maturity one of the most fervent supporters of separation, had in his youth upheld the guardianship of the state over the church. And he expressed this conception in his work, *The State in its Relations with the Church*, writ-

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tion est prononcée; 1. si les deux tiers des électeurs ont pris part à la votation; 2. si les trois quarts des votants se sont prononcés pour la dissolution; 3. si les deux tiers des paroisses se sont prononcés dans le même sens.

Art. 61. En cas de dissolution de l'Eglise, le Consistoire alors en fonction procédera à la liquidation et décidèra notamment à qui les biens de l'Eglise seront attribués.

Cette décision devra toutefois être soumise au corps électoral, si le cinquième des électeurs ou la moitié des conseils de paroisse en fait la demande dans les deux mois suivant la publication de l'arrêté consistorial.

[23] The principles and laws of religious freedom advance slowly in England. The Test Act of 1673 obliged all state officials, both civil and military, and all members of the House of Lords and the House of Commons to take an oath of allegiance to the religion of the state. The Act of Toleration of 1689 saved the Episcopalians in England and the Presbyterians in Scotland, but still excepted the Catholics, the Baptists and the Quakers.

The Test Act with its obligation to take the Anglican oath, was abolished only in 1828, and the act of emancipation of the Catholics was enacted only in 1829. The Jews were admitted to Parliament in 1858 with a modification of the oath of office, and in 1884 the agnostics and free thinkers. Until 1868 even non-believers in the Anglican Church had to pay a compulsory parochial tax. And it is still disputable whether Catholics and dissenters may occupy certain high offices of the state. The reader will remember the latest controversy regarding the eucharistic procession in London, which has been the cause of a legislative measure introduced by the Irish members in the House of Commons. This Bill aims to remove all the last religious incompatibilities of which mention is made in Lilly and Wallis' manual entitled *A Manual of the Law specially affecting Catholics*, Ed. Clowes, 1893.

ten in 1830. Macaulay, who was then more mature and who had already reached that serene judgment, which Gladstone was to acquire later, criticized the false conception with great clearness, bringing arguments born of experience drawn from history, and vivid admonishing examples. With great sagacity he reminded his opponent that the princes who have effected the greatest progress of their subjects were not the best masters of theology. Among the greatest kings of France ranks, certainly, Henry IV, who put an end to civil war, restored finances, made his country respected, and was himself beloved by his subjects. But he was twice a Huguenot, twice a Catholic, while some think that in his heart he did not profess any religion, which was quite possible for one who dared to say, "Paris is well worth a Mass!" Besides, the French and American constitutions are surely those under the wings of which liberty and property find the best protection. Still, neither the government of France nor that of the United States is organized in a way to adapt itself to the propaganda of religious doctrines. Macaulay points out, furthermore, that different faith does not prevent men from serving the same ideal. On the day of the battle against the French (1704) Marlborough received in the morning the sacrament with the rites of the Church of England; Eugene of Savoy confessed to a Catholic priest; the Calvinist chaplains of the Dutch army prayed in accordance with their rite; the Danes listened to Lutheran ministers . . . and, before sunset, the empire was safe. Must an army have *one* established religion in order to secure unity of action and a common interest? Should Eugene have been deprived of command because he was a Catholic, and the Austrian and Danish colonels dismissed because they denied the thirty-nine articles?

Gladstone, always sincere with himself, changed his mind, and became a partisan of separation, just as he had become a partisan of disestablishment of the Church of England in Ireland, with these noble words: "During my youth I thought that what was good for us ought to be good also for Ireland. I did not realize then that if England is inhabited by Englishmen, and Scotland by Scotchmen, Ireland is inhabited by Irishmen."

In a debate in the House of Commons which ended with a motion favorable to separation,[24] the prevailing remarks, in contrast to the debate in the French parliament, turned on the necessity of liberating the Anglican church from state control, in order that its faith and acts might appear to be more vivid, more spontaneous and more beautiful. Religious freedom favors the church and is not against it: these are the thoughts and the feelings which prevail in Protestant countries, and which shine in the examples set by Scotland and Wales, narrated elsewhere in this volume.

[24] The following motion of Everett was approved with 198 yeas and 90 nays: "that, in the interest alike of religion and the nation, it is desirable to disestablish and disendow the Church of England and Wales." The Commons noted afterward the principle of religious freedom for Wales.

The English lower class is becoming alienated from the national church because it considers it too aristocratic. Loosen its golden chains, and the people will again drink at its pure fountain: this was the dominant note of the partisans of separation. In the debate in the House of Commons it was asserted that a state church established by law involves a violation of liberty, deprives it of self-government, and is contrary to true religious interests because states invariably appoint bishops from political considerations.

The uprooting of the state from the church in Protestant countries causes outcries from all those who have an historical sense and who are accustomed to consider the state as a defense of their faith against the Vatican. But the most deep-seated traditions languish some day, and all that religion possesses of greatness and consoling strength draws light and vigor from the innermost conscience, and is regenerated in a spontaneous revival sincerely made, which bears no other tutelage than that of liberty.

The two great forces that feed the moral, intellectual and economic life of all nations, the two sacred inextinguishable altar lights, are *faith* and *science.* Nobody ought to assume the responsibility of restraining them, directing them, or sacrificing the one to the other.

Their predestined progress cannot be impeded; they constitute the essence of soul and intellect, and every attempt to direct or compress them appears every day more a sin against the noblest manifestations of mankind.

To believe and to know, faith and science; only liberty can coördinate these two supreme ideas, destined to diverge, to meet, to contradict each other, ideas which on account of this very divergence, this contradiction and this agreement, underlie the organic evolution of progress and civilization.

If religion dares to place limitations on science, as it has attempted to do many times, the discovery of truth is delayed. If science opposes the free play of faith with violence and not with theorems, it may, wherever it is dominant, kill sanctity or delay its salutary effects upon the world.

A limitless science, an unobstructed faith; both capable of infinite development and expansion, lighting all intellects, consoling all hearts: this is the great miracle worked often, without noticing it, quietly and continuously, by freedom of science and conscience. They reciprocally face one another, and reciprocally improve one another.

The long tragic controversies which led during the past centuries to civil wars and to the stake are ended now by exhaustion, just as happened to certain dialectics of metaphysics which formed the theology of philosophy.

But faith remains as alive as ever, and our contemporaries shed over the Sermon on the Mount, as they read the Gospels, tears and sighs which the old believers did not know. There is something newer and greater in the way of conceiving and practicing faith, which becomes more elevated and refined. And this goodness, full of pity, is truly worthy of a century which knows no limitations on the progress of science. Faith is vivified, is purified, and is not extinguished. One can say that it gains in active virtue all that it may lose in the sphere of contemplation and dogmatical discussion.

Those who announce the death of God are and will be disappointed. The idols die, the gods die; but God remains, because He is a celestial ideal which no branch of science has been able to reach. And science which denies and wishes to establish atheism is also near its decline and fall.

In the pages which the author of this book has written since 1875 and which are here republished, he has tried to show that scientific spirituality grows more vivid than ever, or at least that all the doctrines which seemed to be made to kill it were killed by true science, which survives so many vain systems which have usurped its name.

Now if this labor of faith and science is perennial, assiduously eager and inevitable, governments, parliaments, and all those who rule the destinies of nations have only one duty, which is the duty to guarantee full liberty to the seekers of God and the seekers of truth. History has already judged with infallible answers, and it has condemned those who lay their hands upon science in the name of God, or upon God in the name of science. And the doctrine of organic and constitutional liberty does not draw its reason only from the innermost recesses of conscience, but finds in history its most effectual sanctions and most evident consecration.

If these studies which have occupied my mind and lighted my heart for so many years could render the learned less presumptuous and the believers more humble, increase reciprocal respect in both, and make the believers feel that without freedom their faith lacks vital nourishment, and the learned that there is in moral and religious truth a knowledge which is demonstrated with methods quite different from those of scientific logic, but from which goodness and social solidarity may derive their greatest influence, then it would seem to me that I could prepare my mind with more serene quiet to the chaste thought of death.

It is impossible that there can be a substantial conflict between the sublime sentences of the Sermon on the Mount and the greatest scientific discoveries of our times. And, while waiting for the great Aristotle of the future who will perceive by intuition the ideal conjunction of things true, beautiful and holy, let us continue to worship the sublime mystery of God, to explore nature and increase the treasure of science.[25]

[25] The *Revue de Paris* of December 1, 1908, explained in an article by André Maer that the Catholic church in Russia concedes full democratic government to religious associations. But this solitary example cannot modify our reasons, nor does it alter the substance of the Vatican policy.

A remarkable book of philosophical character on *Intolerance* by Professor Marchesini, and the first volume of the *Histoire de l'Inquisition en France* by Th. de Cauzons (Bloud et Cie) have been recently published. The latter work treats of the origins of the Inquisition and is important.

PRECURSORS AND APOSTLES OF RELIGIOUS FREEDOM

THE FIRST DECREE ON FREEDOM OF CONSCIENCE (King Asoka's) [1]

AN eminent French writer, Gaston Boissier, observes in his commentary on the Milan Edict of Tolerance, proclaimed by the Emperor Constantine in June, 313 A.D., that this decree inaugurated a new system: the principles of religious tolerance officially proclaimed by an emperor. "It was the first time," he adds, "that the world heard such words." [2]

Is this statement correct? It has been thought so almost generally until now, by those few writers who study freedom of conscience.

But we must note that the great philosophical and religious events of the Orient, especially those of India, nearly always reverberated in the destinies of Europe, which every day loses more of its historical originality in good as well as in bad enterprises. Therefore we must not wonder if, about five hundred and forty years before the Edict of Milan, the Oriental world, India, heard an imperial discourse, even more high and sublime than that of Constantine on liberty of worship. These great moral and religious ideas were first conceived in Asia: lights of humanity, which thereafter flash through the path of history and permeate Europe!

In all the philosophical systems which follow one another in the course of centuries, from the first cosmogonic system to the latest audacity of positivism, which pushes divinity farthest back, or, as Main de Biran said, makes ignorance of it issue from a higher source; in all modern study of primitive religions, two principles appear evident: that the sentiment of divinity is natural in human minds, and that these need to express the same in full liberty and variety.[3]

To seek in history the evolution and the fortunes of such examples is useful to the cause of a pure and sincere religion, which had its most splendid victories in spontaneous faith, and lost every element of greatness, declined and was at times on the point of losing all dominion upon the earth, in cloaked hypocrisy and brutal persecutions, when peace and love no longer descended from heaven, and when the firmament appeared grim and dripping with blood.

Freedom of conscience includes also freedom of science, which detaches itself from the former like the child from the maternal womb. Without freedom of conscience we would not have the ineffable consolations of heaven, without freedom of science we should lose the dominion of man over nature!

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[1] This chapter was published for the first time in 1892 in the *Nuova Antologia*. A few of the studies in this volume were first published in the same review.

[2] See Gaston Boissier, *La fin du paganisme*, Vol. I, p. 54 (*L'Edit de Milan*).

[3] See for the natural character of the feeling of divinity: Hegel's *Philosophy of Religion* with Vera's preliminary dissertation; Max Müller's *Introduction to the Science of Religion;* Bradley's *Ethical Studies;* Muir's *Sanskrit Texts;* Caird's *Introduction to the Philosophy of Religion.* This last work, published in 1880 at Glasgow, is an inimitable model of research on the nature of the sentiments of divinity. See also the important works on the subject by Mariano, James, Boutroux, etc.

Therefore, discerning in the farthest origins the first dawn of freedom of conscience, demonstrating that even in the most difficult and saddest moments of history the tenuous stream of light was never extinguished, that the native goodness of the human soul was always revealed in favor of oppressed humanity, even in those horrible contingencies in which intolerance in the name of God seemed the greatest virtue consecrated by public opinion; all this constitutes moral and constitutional research of such a high order that it must perforce take a dominating place in modern studies.[4] Every new page added to the slender volume of freedom of conscience is a precious document which testifies to the nobility of human nature and dilates with a sigh of consolation the hearts of free men still oppressed by iniquitous laws, and prejudice even more iniquitous than the laws.[5]

Just as Constantine ruled between paganism and Christianity, so did King Asoka sit as arbiter between Brahmanism and Buddhism, the latter being the Christianity of the Orient. Both these monarchs abandoned the ancient tool of persecution, heretofore judged infallible, and trusted in respect for all creeds, liberty. They could have continued massacre in the name of God, but they stopped it—an act of sagacity with weak princes, and an act of high wisdom with powerful ones, accustomed to reign over the consciences of their subjects. They both deserve the praise which Ammianus Marcellinus gave to Valentinian, who "distinguished his rule by remaining impartial in the midst of a diversity of religion. He would not harass anyone, he did not order anyone to worship this divinity rather than that, and would not bend the heads of his subjects by threats before the objects that he venerated." [6]

[4] Conti Rossini, expert student of Abyssinian lore, in a remarkable paper read at the Accademia dei Lincei, reveals that even in that closed and obscure country there existed a free and lofty thinker: Zara Jacob. The latter meditated for two years in the seclusion of a cave, and in his meditations went far. In the middle of the bloody clash of two parties of the same faith he reached the view that not only the two parties engaged in the struggle were wrong, but that in general all religions were wrong, and reached a form of theism in which laws are dictated by reason and order of nature. He does not speak of freedom of conscience, but it is evident that in his opinion all men ought to clasp each other in a great loving embrace instead of slaying each other in the name of a lie, even if it is said in good faith. These principles he confirms in his teachings collected under the title of *Hatatà Zara Jacob*, "Zara Jacob's Search," of which Antoine d'Abbadie brought a manuscript copy to Europe.

[5] See, as a record of revived prejudice and present intolerance, a notable work entitled *The New Exodus, A Study of Israel in Russia*, by Harold Frederic, London, 1892. This volume narrates the persecution of the Jews in Russia, and it is a book bathed in tears and blood. See also the illustrated review, *Darkest Russia, A Journal of Persecution.*

[6] Ammianus Marcellinus XXX, c. 9. *Postremo hoc moderamine principatus inclaruit, quod inter religionum diversitates medius stetit, nec quemquam inquietavit, neque ut hoc coleretur impetravit illud, nec interdictis minacibus subjectorum cervicem ad id quod ipse coluit inclinabat, sed intemeratas reliquit has partes, ut reperit.*

King Asoka, called "the Furious," was converted to Buddhism and led the life of a saint with sincere repentance.

This was between 259 and 232 B.C. One hundred and forty years before,[7] Athens, the greatest of the republics, sentenced Socrates to death because he had offended the gods of his country. His sublime disciple Plato, in his *Ideal Republic* and in the *Laws*, excluded even the hypothesis of presence of citizens who do not adhere to the religion of the state. Even when they abstain from all kinds of propaganda they do harm by their example. If they hide themselves, if by reason of righteousness or gentleness of soul they keep to themselves, not for this do they seem less guilty to him. He sentences them to five years in prison, during which time they must listen every day to sermons to lead them back to the true faith. If the atheists and those who deny the gods of their country are stung by the ardor of propaganda and seek to seduce the believers, citizens of that perfect republic, then they must be placed in horrible dungeons and must be denied burial after death.[8]

As in many other doctrines of the *Republic* and the *Laws*, the metaphysical ideal borrowed from the reality of things, since the Greeks obeyed a rough and fanatical orthodoxy which was founded upon the pride of the priestly caste and the superstition of the people. Therefore the penalties threatened by Plato in his immortal books were effectively practiced, from Socrates' cup of hemlock to the flight of Aristotle, who wanted to prevent a new attack on philosophy in Athens. Protagoras was sent into exile and his book on the gods burned by order of the magistrates; Anaxagoras was imprisoned and he too owed his safety to flight. Theodore, called "the Atheist," and probably also Dionysus of Apollonia, were tried for the crime of denying the gods.[9]

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[7] In May, 399 B. C.

[8] The tenth book of Plato's *Laws* is devoted to offenses against the gods, in word or deed, horrible penalties being inflicted for *sacrilege*, a view common to all governments founded upon religion, as Cousin justly observes. The penal code of the *Laws* is founded upon theodicy. Every one must believe in the existence of the gods, acknowledge their continuous participation in human affairs, and admit a belief in swaying them with sacrifice and ceremonies. Those who deny all this are impious and sacrilegious persons. The impious must be invited to see their error; those who surprise them in acts or words of impiety, must denounce them to the magistrate who, in his turn, becomes guilty of impiety if he disregards the accusation. The penalty depends upon the temperament of the unbeliever. "There are men who do not acknowledge the gods, but having an upright character, detest the wicked and because of certain horror of injustice, are incapable of crime, flee the company of the wicked and associate with the righteous. But others add ardent passions which they know not how to moderate to the claim that the universe is destitute of gods, and they often have an excellent memory and a great penetration of mind. The disease common to these is not to believe in the gods; but the latter are far more harmful than the former." And Plato continues this analysis, worthy in its refined cruelty of the Inquisition which he preceded. There is no suspicion of the fact that each human conscience may and must have its own theodicy, and that faith is especially an individual sentiment. This was repugnant to the character of the times and the conception of the ancient state. But Plato's doctrines about freedom of conscience must be examined separately and I shall do that some other time. How much more cautious should and might have been the disciple of a martyr to freedom of conscience, the disciple of Socrates.

[9] V. A. Lange, *Histoire du Matérialisme*, Vol. I, pp. 3ff., 440 et seq.

This happened in the freest city in the world, in those years in which from distant India issued a higher doctrine liberating religious conscience.

But before giving our commentary and deducing its spiritual value, let us listen to the gospel of the wise and melancholy king.[10]

> King Piyadasi, dear to the gods, honors all sects; the ascetics (hermits) or those who dwell at home; he honors them with charity and in other ways. But the king, dear to the gods, attributes less importance to this charity and these honors than to the vow of seeing the reign of virtue, which constitutes the essential part of them. For all these virtues there is a common source, modesty of speech. That is to say, one must not exalt one's creed, discrediting all others; nor must one degrade these others without legitimate reasons. One must on the contrary render to other creeds the honor befitting them.
>
> Acting thus, we contribute to the progress of our sect (or creed) by serving the others. Acting otherwise, we harm our own faith, bringing discredit upon the others. He who exalts his own belief, discrediting all others, does so surely to obey his religion with the intention of making a display of it. But, behaving thus, he gives it the hardest blows. And for this reason concord is good only in so far as all listen to each other's creeds and love to listen to them. It is the desire of the king, dear to the gods, that all creeds be illumined and that they profess pure doctrines.
>
> All, whatever be their faith, must learn that the king, dear to the gods, attaches less importance to charity and to objective religious practices than to the desire of seeing the essential doctrines and respect for all beliefs reign. Supervisors of religion, officials in charge of supervision of women, and other officials with public authority labor to obtain this result.
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> The profit thereof is the advantage of one's own faith and the light of religion.

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[10] Among the principal works which I have examined in preparing this section I note the following: Max Müller, *Anthropological Religion*, London, 1892; E. Senart, *Les inscriptions de Piyadasi*, Paris, Imprimerie Nationale, 1881, two volumes. This is a fundamental work on the philological and technical standpoint. I have borrowed from it in a special way, translating from it King Piyadasi's inscriptions, and comparing them with the translations of the classic authorities on India, Prinsep and Wilson. See the *Corpus Inscriptionum Indicarum*, Vol. I, *Inscriptions of Asoka*, prepared by Alexander Cunningham, Calcutta (Office of the Superintendent of Government Printing), 1879. I may add that I had recourse for advice and information to Professor Teza, who has examined for me these translations of Piyadasi, also Kern and Bühler. See also the *Lotus de la lonne loi* of the great Burnouf. See the classic works, Burnouf, *Introduction à l'histoire du bouddhism indien;* Idem, *Considérations sur l'origine du bouddhism;* Lassen, *Indische Alterthumskunde*, T. II. Both Burnouf and Lassen furnish many details on the life of King Asoka. The latter was first exceedingly cruel, then he became a saint. His charity was boundless and, following Buddha's example, he continually labored for the welfare of others. His great aspiration was to improve men. When he was compelled to wage war, he noted in one of his inscriptions that after taking a city he did not slay the prisoners, nor did he enslave them—a new practice in those times.

Elsewhere the great king says:

> King Piyadasi, dear to the gods, desires that all sects may dwell wherever it please them. The purpose of all of these is purity of soul and subjection of the senses; but man is changeable in his will and in his predilections. His ideal may be entirely or only partially put into practice; but at least even if it does not give abundant alms, it at least possesses domination over the senses, purity of soul, gratitude, faithfulness in affection, which is always an excellent thing.[11]
>
> . . . .
>
> Inasmuch as the teaching of religion is the best activity, there is no true practice of religion without virtue.
>
> Verily evil is easier; evil is in nature; there must be war against evil.
>
> In the past there were no supervisors of religion, but I created in the fourteenth year of my reign these supervisors of religion. They take charge of all the members of any creed with a view to the consolidation of religion, of the progress of religion, of the unity and happiness of all believers. They shall labor with the Yavanas, the Kambojas, the Gandharas, the inhabitants of Surastra and Petenikas and with the other tribes; with the warriors, the Brahmans, the rich, the poor and the old, caring for their interests and their happiness, aiming to remove all obstacles before the faithful. And they shall labor to comfort those who languish in chains.[12]

King Piyadasi accomplishes all these efforts on behalf of humankind, thinking of the future life, and endeavoring above all to avoid the great rock of evil. "But surely the thing is difficult for the great as well as for the small, except when detaching one's self from everything with a powerful effort."

In order to prepare himself for this great goal of a future life, the king, who considers himself as the center of all the free religious consciences, which feed faith by the effects of persuasion, of spontaneity and never of violence, transforms himself too, becomes sublimated and, as it were, is transfigured.

Thus he speaks of his duties and of his mission:

> In the past kings left their palaces in search of pleasure: the chase and other diversions of similar kind formed their delight. I, King Piyadasi, dear to the gods, have achieved to perfect understanding in the thirteenth year of my reign. Therefore mine are the pleasures of religion, that is, visiting Brahmans and Samanis and bestowing alms upon them, visiting the old, distributing money, visiting the people of the empire, caring for their religious instruction, consulting the things of religion.[13]

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[11] See Edict VII.

[12] See Edict V.

[13] See Edict X.

> It is thus that King Piyadasi, dear to the gods, enjoys the pleasure that these actions bring, to replace the pleasures of the past.[14]

Since the welfare of the state and attention to holy things must prevail over any other consideration, the king has decreed that at any moment, whether he is eating, or lingering in the gyneceum or in the innermost chambers of his palaces, public officials may freely come to consult him.

> "It is my duty," he says, "to secure public welfare through my advice. The source of this welfare is in activity and the administration of justice, because there is nothing more effectual for the good of the people.
>
> "All my efforts are directed to a single end: to pay this debt to human creatures. I make them happy on earth in all that is possible; may they by their own efforts win heaven in the other world.[15]

The assemblies which that saintly prince calls together have a virtuous purpose. He wants the governors and the faithful to convene every five years in order to proclaim the following religious teaching:

> It is well to give proof of humbleness to one's father, mother, relatives, friends and acquaintances. It is well to bestow alms upon the Brahmans and the Samani. It is well to respect the life of all living beings, to avoid prodigality and violence of speech.[16]

This supreme regard, this anxious respect for life appear in every word, in every act. He deplores those sumptuous banquets for which every day hundreds of thousands of living creatures were killed for his table, and is consoled in the thought that now only three animals lose their lives for his food: two peacocks and a gazelle. And he adds, "Not even these three animals will be killed henceforth."

He is filled with an overwhelming pity for everything and every one, because the good, the saintly, are mystics under every sky. Therefore he forbids killing a whole series of animals: goats and sheep must not be sacrificed when they are pregnant or when they suckle or when their newborn are less than six months old. He plants trees along the roads in order that wayfarers and animals may find comfort under their sacred shade. His attention to the souls of sinners is infinite: he abolishes a great number of cruel penalties, establishes equality of procedure and punishment. He grants three days of meditation to those who are sentenced to death in order that they may prepare themselves for the future life: "Even when they are shut up in a prison I desire that they make sure of the Great Beyond."[17] Burnouf and Lassen think that he even had the merit of being the first to abolish the death penalty.[18]

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[14] See Edict VIII. See I. Barthélemy Saint-Hilaire, *Le Bouddha et sa religion*, p. 107. King Asoka thus speaks to one of his ministers: "Thou knowest not these words of benevolent heroes, of the Sakyas: The wise can find value in valueless things! When my body, abandoned like the fragments of sugar-cane, shall sleep underground, shall be incapable of greeting, of rising and joining hands in sign of respect; what virtuous action could I then accomplish? Suffer thou therefore that I bow before the priests, because whoever says, without consideration: 'I am the noblest,' is surrounded by the darkness of error. The skin, the flesh, the bones, the head are equal with all . . . but the essential thing is what can be found in a vile body, what the wise are disposed to salute and honor."

[15] See Edict VI.

[16] See Edict III.

The fundamental characteristic of the great Buddhist king's doctrine is his profound sincerity, the conviction that without an inner reform there is no real salvation, either in this or in the future world; that one must change his heart and not only his dress, and that, when the inner flame of idealism is purified, it glorifies itself and becomes worthy of life. He deduces freedom of conscience and of religion from sincerity of faith. To believe even in the dissenters and to love them, to find in the depth of one's own creed the reasons for respecting the creed of all others; never to be contented with appearances and external forms: in these golden precepts we find consummated all the most solemn motives of these first decrees on religious freedom. ". . . It is only by modifying one's self entirely—with a change of subjective attitudes—that the progress of religion is achieved. . . ." "Government for religion, progress for religion, safety for religion"[19]—this is the rule proclaimed by King Piyadasi, consecrated by liberty. Without liberty this rule would be only a despotic theocracy; with liberty it advances by several centuries, harmony of sincerity and faith, and makes religion what it should be, a problem of the individual conscience and not an affair of state. According to the Buddhistic doctrine, men are, or ought to be, philosophers athirst with sincerity, scrutinizing the innermost recesses of their souls, continually meditating and continually confessing their sins to themselves in silence. Only then may it be permitted, not to proclaim aloud our small virtues, but to be modestly happy that we have them. This is what king Piyadasi, dear to the gods, says:

> We see only our good deeds; we say, "I have done a good deed." But we do not see the evil deeds, we do not say, "I have done an evil deed; this deed is a fault." It is true that this self-examination is painful; therefore it is necessary to watch over ourselves and to tell ourselves, such and such an act is a fault, like violence, cruelty, anger, pride. We must carefully watch ourselves and say: "I shall not yield to envy and shall not calumniate. This will bring me my

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[17] See Edict IV written upon the columns.

[18] Some Brahman mendicants broke certain statues of Buddha. Asoka, who was living the cruel phase of his life, but almost at its close, became infuriated and cried out: "Whoever will bring me the head of a Brahman mendicant will receive a dénâra." The king's brother, who had embraced the ascetic life, shut himself up for one night in the hut of a shepherd and was killed by some one who took him for a Brahman and wished the reward. His head was carried to the king, who was assailed by profound grief. Then his ministers said to him: "Thy orders, O king, were fatal to a wise one, free from passions; grant thou safety to all by recalling them." The king granted safety to all by abolishing the death penalty.

[19] See Edict I inscribed upon the pillars.

greatest good on earth, this will verily bring me my greater good in the future." [20]

Until King Piyadasi's conversion the god of every people was a national and an avenging god. Religion was confounded with country. Outside one's country there is no humanity, and outside one's religion there is only error. To hate foreign gods and foreign creeds; to consider incompatible the existence of more than one religion in one state; to kill and persecute in the name of heaven: such was the dominant doctrine of ancient times, which was mitigated in ancient Rome by the exigencies of its status as an empire, and there religion became pantheistic, in the sense of admitting and tolerating the gods of conquered and protected nations.[21]

It is from India, as far as we know now, that the first decree on freedom of conscience came.[22]

The value of this demonstration lies in its being founded exclusively upon ethics without any admixture of political or conventional elements. The modern practice of religious freedom has emerged from the conflict of creeds fighting against each other. Both the Catholics and the Protestants capitulated after ferocious controversies through sheer weariness after the struggle. The Edict of Milan, in June, 313, stopped slaughter and proclaimed a truce between paganism at its ebb and Christianity at its flood; that act was really more a political move than a religious one. The great Indian demonstration was, on the contrary, inspired only by religious feeling; it addresses the believer in the name of his faith, and endeavors to persuade him that by respecting other creeds he protects his own. There is no politic thought in that case and no argument of opportunism. Every religious conscience, reasoning in an intimate and mystical communion with itself, decides to respect other religious consciences. The world is full of celestial seeds; they bloom in different forms, but their essence is redolent of divinity.

While we have generally seen that profound love for one's own religion produces the most perverse and insidious theological hatred, the document described here shows the opposite tendency. The great king desires every one to practice his own faith, not only in form but also in substance. The most deserving of the believers are the most loyal; faith is the substance of sincerity. But an apostolic ardor must not generate the desire to boast of it. God must be served in humility and in modesty.

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[20] See Edict III inscribed upon the pillars. The collection of edicts is divided into two groups, both belonging to King Piyadasi. One group is composed of fourteen edicts, the other of eight, inscribed upon pillars. Besides, there are more detached edicts of the same kind which are allied in subject matter to those of King Piyadasi.

[21] Cicero recalls, in the *Laws* II, 8, the ancient Roman law against foreign creeds, which was gradually mitigated: *Separatim nemo habessit deos; neve novos, sine advenas, nisi publice adscitos, privatim colunto.*

[22] Historical studies might reveal precursors to King Asoka; and for this reason we use caution in speaking of him, and do not exclude the possibility of new discoveries. When I wrote about Themistius, designating him as "the unknown precursor of freedom of conscience," I did not know of the Indian king, and I was not aware of the Buddhistic constitutional doctrine of religious freedom, described in this volume.

Faith grants consolation and lofty resignation only to those who are silent in sadness, strong in sorrow.[23] Before these formidable problems of our origin and of our end every solution, won through sacrifice and affliction, is dignified and sacred. There must be no pride, vanity and praise; in all of these there is a germ of persecution, of theological hatred. Therefore the king dear to the gods desires more than charity, more than honors, that every religious belief, whatever it may be, grow in fame and valor.

Among the varied means to the achievement of such a righteous end the essential point is that the word be measured; "neither must there be praise of one's belief, nor reproach of that of others, nor neglect beyond reason." In matters that are lofty, good and holy, the humiliation and debasement of some never have and never will elevate others. The different beliefs are expressions of virtue and kindness which exclude contests, envy and exaggerated praise. And he is still worse who thinks that by exalting his own creed he can diminish others, and debases the others, believing that he can give greater luster to his own. A blessing or a truth ceases to be a blessing or a truth if it must shine by virtue of envious comparisons and not by virtue of its own light. Praise, censure, emulation, rivalry, are tendencies of a guilty frailty, contradicting the serene and sobering influence of a belief which is satisfied with itself and finds in itself a reward and a perfect quietude.

Difference of religion cannot, must not, exclude concord, because as religion is the greatest of virtues it cannot generate anger or division. Therefore let those who profess different beliefs live in neighborly friendliness, peacefully and trusting one another. Let them see what they have in common, in a higher brotherhood of religious idealism.

The mission of the king must be that of maintaining inviolate all these sacred fires of the different beliefs, and that of rejoicing that they glimmer continuously like altars erected in fulfillment of a vow to heaven, as a beacon for conscience, and an incitement to virtue.[24]

All purification, growth and progress of religion arises from the depths of the soul, not from conflict and envy. There is a patrimony of common moral property: respect toward one's parents, kindness toward one's friends, charity, temperance, respect for the life of man and of animals. Whoever professes a belief which embraces these holy principles, develops them, preaches them and glorifies them, must not express himself in prideful boasts, in detraction of others' merits, but instead in good deeds. Which one can better turn naturally perverse minds into the paths of docility, gentleness of obedience, respect, love, and all the other virtues? The great obstacle of life is evil; what teaches more effectively how to avoid it? Here we speak of acts, not of words; goodness is not a doctrine but an exercise.[25]

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[23] King Asoka is a true descendant of Buddha in combining ardor of faith and humility. Burnouf, *Considerations*, p. 237, tells of a king who asked Buddha to confound his adversaries with miracles. The master answered: "O king, I do not teach law to my disciples, telling them: 'Go and perform miracles before the Brahmans and the landowners that you may meet,' but I teach thus: 'Live, O religious ones, concealing your good deeds and exposing your sins.'" St. Paul says later, "My force derives from the fact that I am weak."

[24] See Edict VI inscribed upon the pillars. ". . . All the sects receive many and various honors from me. But I consider the essential point to be personal fidelity to their doctrine and to their practice."

Virtue has indefinite and infinite applications, and ineffable disquiet. Only the saints feel and discover their imperfections and weep over them. The more one ascends in the path of saintliness, the more he is inspired to ascend. Continuous cultivation of this lofty ideal, continuous thought regarding perfection in this and in the future life, leaves no time for vanity. Even stopping to preach the excellence of one's belief and to compare it with other beliefs is an act of vanity. In these cases words constitute the sin of pride, even when they appear fraught with religious implications. That king who considers himself near perfection, or at least freer than others from invidious care, declares that he will prefer the most sincere, the most laborious, the most modest of his subjects; those who keep their faith in the depths of their hearts and not in their mouths. In this lies the profound originality of the Buddhistic demonstration. Here religious freedom does not issue, under the form of tolerance, from a political compromise of conflicting beliefs, nor from the amiable skepticism of an indifferent government; it is not drawn from a vague and discolored theism which considers all religions as the developments of a higher typical idea and as simple deviations from it. The profound beauty and the peculiar novelty in King Piyadasi's edicts consist in the fact that religious freedom issues from the very fount of religion; it is an indispensable condition of divinity; it is the essence of faith; it is, as it were, faith in the goodness of faith. The more does the celestial flame burn in the hearts of believers, the more they must feel an obligation to allow it to burn freely in other hearts. In such a way not only is the germ of persecution removed from creed, but there is created—also as a religious act—a spiritual attitude by which both faith and liberty become two forms of the same substance, two indissoluble terms, two indivisible blessings.

The function of the state is not limited in this problem to external action; it is not to impose respect for liberty by punishing the persecutors, but to educate the minds of men to the coexistence of principles which have seemed to be in fatal contrast in the history of religions, to the coexistence of a zealous affection for one's belief and a zealous respect for other people's beliefs. These two principles, apparently antagonistic, are reconciled in the gospel—for such it may be called—of the great Buddhist king, the epitome of real freedom of conscience, which cannot consist of skillful mutual compromise and reciprocal tolerance, indications of weakened beliefs or of political fairness which can at any moment be overcome by a revival of the spirit of persecution. Religious freedom ought to be placed under the custody and inviolable guarantee of religion itself, according to King Asoka's sublime thought. Therefore the task of the state must be centered upon arousing in the hearts of believers these two feelings at the same time: ardor for one's own belief, respect for the beliefs of others. In France, before the separation of church and state, all the recognized creeds had ministers appointed and paid by the state—"officials of public prayer," as Mirabeau called them; this attests to the fairness and pantheistic indifference of the government. In the light of the Buddhistic king's edict, this French state is a religious state, in which public officials are charged to remind all believers,[26] whatever their faith, of that patrimony of common virtues without which religion would lack holiness, and to admonish them to grow in these two greatest glories, not to be disassociated from each other: zeal for one's own belief, modest, disinterested, silent; and respect, even love, for the beliefs of others. The substitution of theological love for theological hatred, which has seemed to be the necessary condition of every belief, and the establishment of a state institution based on this idea, was the originality of the Buddhist king's theme. It has also been its permanent and eternal character, if it is true that the great saints of humanity are charged by a sort of fatal mission to expound and show the practicability of ideals of virtue, thus making the ideals common to all men with the passage of time, merely because a better man than others knew how to discover and practice them. Therefore let us popularize this fragment of Indian history. Schopenhauer, too greatly exalted by the *Veda* and the *Upanishad,* was wont to say that the literature and the philosophy of India could have enriched our civilization just as much as the literature and philosophy of Greece, and in the same way this episode in the history of religious freedom may help to better modern society, which is afflicted both with theological hatred and atheistic hatred, and corroded by the violence of blind beliefs and blind negations. To love other people's creeds while believing in one's own; to respect the latter, while denying to one's self the joy of faith—this virtue seems so difficult to-day that the ancient Hindu prince runs the risk of being considered a dreamer. Still, nearly two and a half centuries before Christ, he dreamt truths so sublime, so modern, so democratic, that we are discredited if we do not understand and appreciate them. The firm and gentle way in which that mystical king expounded his dreams did not only create spiritual peace while he lived, but even after his death; since we observe in Buddhism a tendency to counsel religious freedom, even when it was no longer upheld and interpreted by this great saint.

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[25] See Edict II of the second group, inscribed upon pillars; "That is what King Piyadasi, dear to the gods, says: 'Religion is an excellent thing. But, we may ask, what is religion? It consists in doing the least possible evil and much good, in practicing pity, charity, truth—in brief, a pure life. Therefore I have given alms for men and quadrupeds, birds and animals that dwell in the water. I have scattered different gifts, even insuring a supply of drinking water, and I have accomplished other meritorious deeds.' "

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[26] See Edict I inscribed upon pillars: "This is what King Piyadasi, dear to the gods, said: 'I have had this edict engraved in the twenty-seventh year of my reign. It is difficult to procure happiness in this and in the other world, unless there be an extreme zeal for religion, a rigorous vigilance, an extreme obedience, a lively sentiment of responsibility and extraordinary activity. But, thanks to my instructions, this attention to religion and zeal, and religions themselves, are growing and will grow from day to day. My superior, middle and subaltern officials shall obey these rules and direct the people in accordance with them.' . . ." See also Edict VIII inscribed upon pillars where the educating mission of the principles of all religion is more than ever manifest. The great king's missionaries must teach faith with charity and kindness and have equal respect for all religions.

E. Sénart, a distinguished writer who has studied King Piyadasi's inscriptions from the philological point of view, observes that religious tolerance was not an exceptional case, had not only one shining example to offer, but became a general tendency; of this assertion we have abundant proof.[27]

If it be true that the men most worthy of veneration are those who have banished hatred from human hearts and substituted for it love, thus sparing tears and blood, the name of this Buddhist king ought not to mark only an historical curiosity, but should rank among the names of those benefactors of humanity who thought, suffered and died for the sake of religious freedom or of philosophy.[28]

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[27] Sénart, *Inscriptions de Piyadasi*, Vol. II, pp. 267ff. See also what Grandidier says, in his *Voyage in India*, about the religious tolerance of the inhabitants of Ceylon, who profess Buddhism; and particularly consult Spence Hardy, a Wesleyan missionary who lived in Ceylon for twenty years (1825-1845). His *Monachism in the Orient* and his *Manual of Buddhism* are still considered classics. Spence Hardy was afforded the opportunity of consulting the Buddhist anchorites, who were mild and accessible; this nature he attributes to their habits of tolerance. The English missionary observes that side by side with Buddhist *vihâras* one can find *dévâlas* where Brahman divinities are worshiped with Sanskrit prayers. Is it through a spirit of tolerance, is it through a far-off memory of King Piyadasi that Cingalese priests live in friendly, neighborly intercourse with members of a creed which they reject, like Brahmanism? In the same spirit the Buddhist priests asked Spence Hardy to permit the Protestant church to be used for readings of the *Bana*. I have not yet been able to consult a work, just announced, entitled *Buddhism Primitive and Present in Mayadha and in Ceylon*, by Reginald Stephen Copleston, Bishop of Colombo, President of the Ceylon Branch of the Royal Asiatic Society. Buddhism, persecuted many times, did not seek revenge when it emerged victorious. See *Barthélemy Saint-Hilaire*, p. 400.

While I was reading the proofs of this volume I received the work mentioned above, by Bishop Copleston, who is astonished at the precision of Spence Hardy's works on the *Pali* texts and comments, drawn from Cingalese sources.

Chapter XX of Bishop Copleston's book is devoted to Asoka (pp. 256-281). He speaks of the edicts, referring to the principal sources which I have consulted and establishes the identity of Asoka and Piyadasi. He observes that "his was an enthusiasm which not one of the Antonines ever had. . . ." In him Buddhism "inspired perhaps the greatest efforts for good that have ever been attempted outside Christianity. He was not only the Constantine of Buddhism; he was an Alexander with Buddhism for his Hellas; a disinterested Napoleon with 'mettam' instead of glory." The Buddhist creed comprises three parts: *mettam*, *dànam*, and *cágo*. (See R. S. Copleston, *Buddhism Primitive and Present*, p. 181.) The book was first published in 1892 and a second edition has just been issued.

[28] In 1892, when I realized the sublime religious quality of King Asoka's views, and later on, when I persisted in praising his priority, I was accused of exaggeration. More than thirty years later, I still remain of the same opinion, and in recent days I have had the satisfaction of finding my quotation repeated and of reading a fervent tribute to the great Buddhist king in the review which Rabindranath Tagore, the Indian poet, publishes in Calcutta, *The Visra-Barati Quarterly*, October, 1924. The article is by Professor Samaddar. He recalls that H. G. Wells, in answer to a question as to who were the six greatest men in history, spoke of Asoka as a star that shines almost alone amidst the tens of thousands of monarchs that crowd the pages of history. And he adds that Asoka occu-

AKBAR, THE MOSLEM EMPEROR, ON RELIGIOUS LIBERTY

A FEW great principles, when they seem lost in the silence of the ages, or are veiled by the deep mists of oblivion, rise again to comfort those souls that long to worship divinity in accordance with the innermost dictates of their conscience.

India, the mysterious, unknown land, the cradle of humanity, in the opinion of some philologists, was to bring forth the blossom of spiritual freedom and of full tolerance, and to pass it on as a precious gift to her progeny, in order that they might truly feel like brothers.

This thought recurred in my mind and sank into my heart as I found in history (history which reads like legend) the story of the great Moslem emperor of India to mark the harmonious continuity, almost the transubstantiation of the great Buddhist King Asoka, a continuity which shows how the seed planted by the great and wise king brought fruits after 1800 years, just as that song of a poet which seemed to vanish in the air was found again far off in space and time, cherished in the heart of a friend.[1] But the air and the vital soil of India can cause everything to fructify!

After Asoka, the great empire, burned by fanaticism, by avid Moslem lust, by the convulsions of war, still had years of freedom and peace of conscience. But it was not until Akbar's reign that a religion of the heart could burst forth and a religion of love flood the mystic land with rivers of sacred fire, which perhaps encloses and will one day reveal the mystery of life.

Warriors both, but warriors not through desire for conquest, but entirely or predominantly in order to bring welfare and peace of mind to the greatest number of their subjects; searchers for truth, wherever it sheds its luminous rays, I prefer Asoka. But Akbar inspires a great admiration in me because, although not molded like Asoka by a high austere philosophy, but coming instead from a dynasty of intolerant, bloody or weak, and often inept princes, he yet could rise from the Prophet's fatalism to the dream of a universal religion, freely accepted after being freely discussed. And he rose so high in the search for truth that he considered

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pies a truly unique place in history, especially because he made tolerance the essential ideal of his reign. Although a Buddhist he granted benefits, gifts and sanctuaries to the *Jaina* and the *Brahmans*. A tradition of Kashmir preserves the names of Brahman temples built or restored by Asoka. Besides religious questions the King had to pay particular attention to heretics, the learned Brahmans of the Veda, sacred places, minors, women, old people, afflicted and deserted persons, and even cattle. And all these were urgent matters. Urgent appeals must be attended to at once and never postponed. Matters once postponed often become difficult or impossible to accomplish.

In truth, Asoka's edicts throw light not only upon the ethical aspect but also upon the social, political and economic activities of the great king. Of him it has justly been said: "If a man's fame can be measured by the number of hearts who revere his memory, by the number of lips who have mentioned and still mention him with honor, Asoka is more famous than Charlemagne or Caesar."

[1] Henry Wadsworth Longfellow, *The Arrow and the Song.*

all beliefs as historical products of their time and place, and as beacons of a single eternal truth.[2]

[2] J. Talboys Wheeler in his *History of India from the Earliest Ages* (Trübner and Co., London, 1874) finds, even more than I do, a great resemblance between the two emperors. In the chapter on "Buddhist India" he compares them from every point of view. "Asoka was crushing the revolt in the Punjab when his father died, and so was Akbar. Asoka spent many years in conquering and consolidating his empire; so did Akbar. Asoka conquered all of India north of Nerbudda; so did Akbar. Asoka taught a special religion of his own; so did Akbar. Asoka abstained from meat; so did Akbar. At the end Asoka took refuge in Buddha, in Law and in the Assembly. At the end Akbar recited the formula of Islam: 'There is only one God and Mohammed is his prophet.' "

For Mr. Wheeler the edicts are the expression of a pure system of moral teaching and the religion of majorities. And he continues to reason something like this: The religion of the heart is for the multitude, the religion of the intellect for the few. The first is a religion of humanity, in which affections are recognized as a necessary part of existence, and the duties of affection spread into an entire system of morality of thought, of word and of action. This religion recommends itself not only to the heart but to the general sentiment of justice which prevails among people, teaching that virtue shall be rewarded and vice punished. It is obscurely expressed in the legend of Buddha's life, perhaps because the legend was compiled in an era of intellectual mysticism. Instead of that, it found its first expression in Piyadasi's edicts, one of the most interesting relics of the religious history of mankind, containing a conception of Dharma free from every monastic element. There is no trace in them of an ascetic spirit which removes all poetry from life, there is no nostalgia for celibacy and seclusion, no joy in metaphysical speculations, nor morbid aspirations toward Nirvâna. This Dharma of the edicts can almost be defined as a religion without creed and without theology. Besides, the Dharma cannot be identified with Buddhism, although the Buddhist monks of a later epoch have applied the name of Dharma to their law. In only one solitary edict, Piyadasi acknowledges the religion of Gotama Buddha; all the others contain no allusion to Buddha. They teach the Dharma, and only the Dharma. There is no allusion to transmigration, still less to the annihilation of Nirvâna, last word of monastic teaching. In the edicts this sentence occurs again and again. "With loyal observance of all this the religion of the rajah dear to the gods will flourish in the world and will last as long as the mountains." In fact the religion of the heart has struggled through innumerable centuries under the dead weight of an ecclesiastical system which ignores the affections. Its vitality still reigns supreme among the wrecks of ancient creeds and expiring mythology. In India the ulterior development of the Dharma has been repressed by Brahmanic rites, and the people are still divided into castes; but among the little circles of family, village and caste this religion flourishes more than elsewhere. Until now the Hindus have remained most respectful toward their parents and their priests, the kindest toward their neighbors, and the most frugal and temperate. Among the Buddhists, perhaps owing to the lack of caste, the virtue of hospitality is more pronounced, while the others are less pronounced.

Further on Mr. Wheeler expresses the opinion that Buddhism was compelled to accept Piyadasi's religion, as taught in the edicts. The system of primary education, still followed with young people in the monasteries, is, in his opinion, perhaps the last relic of the vast philanthropic reforms which filled the mind of the rajah dear to the gods.

"His," he says, "is a true religion, because it is not the product of Brahmanic ritualism, nor of the Buddhistic law of the wheel, but is the fruit of the Dharma and only of the Dharma."

At the end of his life, veiled in that mist which envelops his entire life, it is known that Piyadasi was converted to Buddhism and that he embraced the three principles: Buddha, the Law and the Assembly. But we know of this event, according to Mr. Wheeler, only from an inscription addressed, it seems, to the Buddhist assembly of monks of Magadha, in which he declares he accepts the precepts of Buddha. But he did not recognize the law of the wheel nor did he express his approval of monastic vows.

It is known that later studies have demonstrated that these ideas of Mr. Wheeler's are inexact. Asoka became a lay Buddhist in 261 B.C. and two years later he became a monk. He did not intend to create a new religion, but only to induce the people by every means to practice the precepts of the law, and he proclaimed in the Bhâbrâ edict:

In facing Asoka's edicts, inscribed on pillars and rocks so many years before Christ, those edicts which were the first beacon lights for tormented consciences, we find—a distant and not unworthy expression—Akbar's edict for absolute toleration, which insured in 1593 freedom of worship for all the provinces in the empire. And its author thus expressed himself: "Each decision of mine manifests my desire to draw near to divinity. My only purpose is the fraternal union of the people of the entire earth, and rest for the universe." Perhaps the dream of universal toleration was the principal reason that set him against the Jesuits of Goa who were trying to win the great emperor over to Christianity and whose eyes were fixed on a single light, that of their own belief. This plan of conciliation on religious grounds of nations which had at first fought each other was surely the result of divine inspiration. Akbar must have conceived it through complete disappointment in the efficacy of Mohammedan orthodoxy, through serene and accurate research into all the most important beliefs of his time, in fecund solitary meditations made in the depth of night under the old Oriental sky, daring to break inveterate traditions, sacred practices, and to defy men in high position. "Oh God," exclaimed the conqueror of India through the lips of his great minister, Abul Fazl,

> Oh God, whether I go to a Christian monastery or to a mosque, I seek Thee from one temple to the other. The chosen ones have nothing in common with heresy or orthodoxy, because no one of them penetrates into the sanctuary of Thy truth. I abandon heresy to the heretic, religion to the orthodox, and like the merchant of incense, my soul gathers the perfume of every rose leaf.

This tendency of Akbar's to perceive rays of truth in every religious belief is thus defined by Father Daniello Bartoli in his book entitled, *Mission to the Great Mogul of Father Ridolfo Aquaviva:* [3]

> He showed he was inclined to believe that in the end all laws are good, although the one may be in part better than the other, and that Heaven has ordered that all shall remain in the dark in this matter, because, while every one is persuaded he has truth and reason on his side, God is honored in as many and as varied ways of worship and sacrifice as there are diverse institutions and forms of religion in the world.

After long and difficult wars waged for the consolidation of the empire Akbar initiated an even more terrible struggle against the ministers of his own creed, a struggle which was all the more dangerous in the Orient and particularly in the Islamic part of the Orient, because church and state were fused together in a way that is difficult for us to understand.

"All that Buddha has said was well said." Cf. among others the learned monographs on Emperor Asoka by Vincent A. Smith and Edmund Hardy, published first in Oxford in 1909 and then in Mayence in the collection *Weltgeschichte in Charakterbildern.*

[3] Piacenza, Tipografia del Majno, 1819.

The Ulema, or theologians, a priestly corporation, were the expression of knowledge, the directors of the conscience of the prince and of the people, and the distributors of justice. Their influence was as a chain which bound together the civic and spiritual life of the empire. Followers of the narrow and ferocious Sunnite doctrine, they persecuted with fanatical intolerance all the other Islamic sects, all unbelievers. Greedy of position and prebendal income, bigots and impostors, they grew in Akbar's contempt greater as the warmer and more serene light of other beliefs and a more austere philosophy flooded his mind and assuaged the thirst of his soul.

While his detachment from the beliefs of his ancestors became wider and his meditations led him to complete skepticism concerning the superhuman character of the Prophet and the purity of the Koran, a factor of definite importance was exerting itself over him. His two most faithful friends, Abul Fazl and Abul Faizi, the first, minister and historian, the second a poet, professed the Sufist doctrine. That ancient current in Islam was a mystic Oriental tendency, altogether Mussulman; it was the rebellion of freedom of thought against the narrow dogma which clips the wings of the spirit. While it issued from Islam's bosom, Sufism was in sharp contrast to the sayings of the Koran. Breathing the oblivion of individuals, it taught that men in their passage through the terrestrial life proceed through increasing degrees of knowledge until the final reabsorption into the universal soul. It seemed as if the spirit of the Upanishads were reincarnated! Extremely tolerant because it considered all creeds as exterior manifestations of the same desire, the love of God, Sufism, without rites, formalities or intermediators between the worshiper and the worshiped, was in marked contrast to Mohammedan clericalism. Active in its mysticism, open to the noblest ideals, mild and forgiving, this current must have appeared to Akbar's searching mind like an oasis in the desert, where the spirit rests and is strengthened so that it may rise toward spheres of more celestial doctrine. It was a pedestal from which to secure wider vision, the touchstone to vaster and more perfect conceptions.

The freedom of inquiry permitted by Sufism stimulated the mind of the thoughtful emperor to scrutinize the unexplored depths of the Brahmanic soul in order to catch a glimpse of the ultimate breath which joins it to its Maker, to know its ultimate wisdom. Then he called on the Parsees to initiate him into Zarathustra's lofty ethic which places on the same level the sins of commission and of words and the sins of thought, and from them he took the worship of the sun. "Not that he ever identified God with the sun," as Noer justly observes,[4] "but this source of light and heat seemed to him the most precise image of his conception of the world."

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[4] Count F. A. von Noer has written an excellent book on the Emperor Akbar (Leyden, E. J. Brill, 1883). In other portions of this chapter I have made use of this thorough and accurate work. Count von Noer consulted numerous works, among others that of Abul Fazl, *Akbar Nameh*, and that of Badaoni, both Oriental authors, and all the German contributions to the subject and many English ones, besides the work of the French Jesuit, P. Pierre du Jarric, published in 1621, containing the most significant facts about India and particularly the Portuguese propaganda of Christianity and Akbar's relations with the Jesuits.

He had also been told of Christianity, of its lofty and active morality, of its empire over souls on all the continents, and he wanted to acquire full knowledge of it, in order to apply these truths to his ends. He sent an ambassador to the island of Goa, where Italian and Portuguese Jesuit missions were established, and gave his ambassador this letter with the request that a few fathers come to his court:

> Know that I am a great friend of yours. I am sending to you Ebadola, my ambassador, and Dominick Perez (an Armenian interpreter) to ask that on their return you send with them two of your number who will bring with them the Books of the Law, and especially the Gospels, for in truth I much desire to know their perfection. . . . I shall derive great consolation from their arrival here and shall receive them with every possible honor.

The Father Superior of the Mission, who must have been glad of the chance offered to him to bring the great Padishah within the pale of the church, sent two of the most learned fathers, Padre Ridolfo Aquaviva and Padre Monferrato, and a very zealous convert, Padre Enriquez. They went away supplied with copies of the Scriptures and the principal works on the Christian creed. When these books were presented to Akbar he kissed them, bowing low and taking off his turban, and later he had them translated into the Persian language. Father Aquaviva, leader of the mission, was a Jesuit who came from an Italian ducal family of staunch faith, most learned, and endowed with every evangelical virtue.[5] He immediately set himself to studying Persian, the language of the court, in order to be able to converse directly with Akbar, who loved him from the very first day, wanted always to have him with him, and would have showered him with riches. But the father humbly but firmly refused everything but very simple food; even that he would sometimes refuse, in order that he might beg God more efficaciously with penances to enable him to effect the generous emperor's conversion.[6]

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[5] I cannnot understand how Count von Noer, who was a psychologist and a most painstaking investigator, could have called these first *padres* "cunning." They refused riches and honors, they did not seek to captivate the good will of the king or of the great figures in court life with flattery or concealment of their profound contempt for, and horror of Mohammed. On the contrary they inveighed in public discussions against the Prophet's "lies" in a manner that was certainly not prudent nor wise. Surely they desired to convert Akbar, and their eagerness was legitimate from their standpoint, which was that only the Christian religion embodies the truth. But when Father Ridolfo knew that his task was one which could not be fulfilled he repeatedly begged the king to allow him to go back. Greater shrewdness would have advised him to prolong his visit. It is true that what determined his return to the monastery was his longing for martyrdom, which Akbar's great toleration would never have satisfied. Father Ridolfo wanted martyrdom at any cost, and he had to look for it elsewhere. Another proof of the simplicity and honesty of their minds is given by Father Ridolfo's refusal to accept the challenge of the Mohammedan *mullah*, who "invited him to enter with him in the fire, one bearing the Gospels and the other the Koran: the one who came out unharmed was to be considered the veritable one, and his law was to be designated the only good and holy one. The *mullah* was a man of importance, but so wicked that the king wanted him to die, but he did not dare to have him put to death. He had Father Ridolfo asked to accept the *mullah's* challenge for his (the king's) sake, even if the Jesuit did not wish to put himself and his faith to the ordeal of the fire. As the *mullah* was the challenger, he would have to enter the fire first and surely, wicked as he was, he would not come out alive. When he was burned with the Koran, the pride of the *mullahs* would be abated; the fathers would lose a terrible adversary, and justice, under the mantle of religion, would free the empire of a malefactor worthy of a thousand deaths. But Father Aquaviva wisely replied to the king that God must not be tempted by forcing miracles upon him, especially when the ordeal would tend more to satisfy curiosity than to

Father Aquaviva and Father Monferrato dazzled the king, and for a moment seemed to assuage his great thirst for the truth. But Akbar could not adapt himself to so dogmatic a creed, since he held a rational conception of the world. How could his nature accept the authority of the Pope and a rigid hierarchy, he who struggled night and day to reach the truth? But he permitted the fathers to build a chapel at Agra, promised them funds for founding a hospital, granted them full liberty for their missionary work in the Portuguese colonies of Hindustan, and even entrusted his second son to them, in order to test with him the effects of Christianity on education. The experiment failed, not, however, through any fault of the learned and zealous Jesuits, who would have had the superiority of their teaching shine in comparison with other methods—Hindu, Persian, Mohammedan—and they succeeded in the case of the young prince. The latter, however, died of delirium tremens; but the third son, who had not left the hands of the wise men of his race, died in the same pitiful way. Teachers are not always responsible for their pupils' actions, for at times their influence is opposed by other factors.

Akbar thoughtfully listened to all his teachings, refuting them with wisdom, and feeling that in public discussion every doctrine becomes

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demonstrate the truth. And if the king wished only to test the esteem in which the fathers held their faith, a single word, a single gesture of command to throw themselves into the flames would demonstrate that esteem. They desired above all to show that they were worthy of their faith. But when it came to pretending, to appearing ready to enter the flames, they would not do it, inasmuch as the Christian faith would not allow it" (Father Bartoli). Herr Garbe, in his pamphlet—a synthesis—*Kaiser Akbar von Indien, ein Lebens und Kulturbild aus dem 16 Jahrhundert* (Leipzig, H. Haessel Verlag, 1909), borrowing from Wheeler, Elphinstone, and Malleson (three English historians of India), affirms that it was Father Aquaviva who proposed to the Mohammedan theologians the passage through the fire with the sacred books. He was severely reproached by his superiors for his daring outburst of faith, because they considered the proposal an inspiration of the devil to cover Christianity with shame.

[6] When Father Aquaviva was going back to Goa, the king begged him to accept at least the money he offered him in great abundance as a small token of his great love. Father Ridolfo did not deny all hope of his return, but he absolutely refused the money. . . . He would, however, accept one gift willingly, and asked permission to take with him to Goa four slaves that the king had in his palace. Among the king's slaves there was a Christian from Moscow with a Polish wife and two sons, who were wavering in their faith through long residence among the Mohammedans and the hardships of slavery. This slave was much valued by the king, and the sons served the queen mother, who was fond of them. In spite of this, the king's affection for the petitioner caused him to ignore every reason for refusal, and Father Ridolfo went away with the Christian slaves (Franc. Sacchini, *Historia Societatis Jesus*, Part V, I, III). When Aquaviva arrived at Goa the father who accompanied him confessed to him that the king had entrusted to him the generous gift of money which Father Ridolfo had refused, and that he had accepted it for fear of appearing too haughty. Father Aquaviva took it and sent it back to the king, with words of humble firmness.

refined and clarified, he caused an imposing palace to be built at Sikri even before the arrival of the Jesuits, to house what Noer calls the "Parliament of Religions," the *Ibadat-Khana.* There, every Thursday evening, learned men and theologians of the different sects from every part of the world discussed the highest and most important theological problems.

> But he [Akbar] seemed to be well aware of what went on inside, and no one knew clearly what creed or religion was his. Each side hoped to gain him, and he led them on with kind words, affirming that he desired nothing but a search for that truth which was as yet hidden from him, and that he hoped to find it through their wise answers. But the debates of the contestants never seemed to satisfy him, and with them their hope and despair rose and fell, because every day they started anew.[7]

And further on Father Bartoli goes on to express the astonishment of the wise Jesuits: "As for the king, only God knew what was in his heart, not the *mullahs*,[8] not the Jesuit fathers who, it appeared, never could guess his real opinion, so indefinite was it. Now he would listen to one side, now to another; then he seemed to agree with both, then with none." Thus did the mysterious emperor's anxious search for truth appear to those simple minds, and, sure as they were of the truth, they were astonished that he passed so near it and was still in search of it!

The Jesuits reasoned with incomparable superiority on account of their great learning and the subtle scholasticism in which they excelled. And—strange irony of history!—the Mohammedan Moors, as von Noer observes, they who had made all the sciences flourish again in the Iberian peninsula, reviving even Aristotle's dialectics, saw their Christian successors seize the rich inheritance, and, in their turn, use against the followers of the Koran the arms forged by the Mohammedans themselves.

What serene nights those were, when men assembled under the auspices of the successor of the caliphs to reason about God! From the barbarous war against all unbelievers to advance to the peace of truly universal councils in which Christians, Jews, Buddhists, Brahmans, Jains, Parsees, and Mohammedans of all sects expressed eagerness for celestial things, in which there emerged a longing to know God more closely, in which the earthly voices seemed the echo of heavenly harmonies, and where those assembled spoke of the problem of life and tried to fathom the mystery of death! Rarely perhaps has God been more sincerely, more fervidly defended and illumined by the small torches of mortals, and rarely must He have shed with more joy His divine light upon His sincere worshipers!

The Gospels were read and commented upon. They debated as to which of the two books, the Gospel or the Koran, was dictated by God, and therefore contained the infallible truth. They disputed "about which of the two, Christ or Mohammed, should have primacy. And then they disputed about the universal resurrection of the bodies of men, of the Last Judgment and such matters, even of the sufficiency and efficacy of the grace of God, that leads us to salvation."[9] They would listen to the recollections of Baber, Akbar's grandfather, and then again they held debates upon the *Veda*, the *Ramayana*, the *Mahabharata* and other Sanskrit works.

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[7] Father Bartoli.

[8] The *mullahs* are the Mohammedan theologians.

But during these long nocturnal discussions the emperor perceived how weak were the arguments advanced by the Ulema, how they were compelled to have recourse to violent means, to furious outcries. And his contempt grew, and matured the plan which he had been formulating in his mind for a long time. He succeeded in accomplishing what would before then have seemed folly or sacrilege, and he made the Ulema themselves sign a decree which conferred on him, the emperor himself, the spiritual government of the empire according to his judgment. Thus came the dawn of that memorable day, when Mohammedanism ceased for some time to be the state religion. This was indeed one of the great examples of separation, an admirable event at the thought of which my liberal spirit exults: any primacy in religious matters was abolished. Be it noted that this great act was accomplished while in Europe the Holy Inquisition was burning heretics alive; it came shortly after the Massacre of St. Bartholomew; while a foreign and detested church was imposed on Catholic Ireland; while the Jews were everywhere being relegated to the Ghetto and the *Judenstrasse;* while Dutchmen, Huguenots, Puritans and Quakers were fleeing from the Low Countries, from France and from England, to seek in the forests primeval of the new continent a place where they might worship God in freedom!

Akbar then confiscated the property of this religious corporation, hostile to the light, and distributed it among the poor and the men of true wisdom. Hindus, Sufis, Parsees, surrounded the emperor and occupied high offices. All creeds were freely professed and all subjects enjoyed full equality in political and civil rights, without distinction of race or creed.

What Akbar sought to establish with his example and his precepts, Ramananda, the religious reformer who had preached in Bengal and Kabir, the philosopher-poet, had already infused into the minds of the people!

> O servant! where dost thou seek me?
> Behold! I am near thee.
> I am not in the temple, not in the mosque,
> I am not in the Kaaba and not in the Kailash;
> I am not in the rites, nor in the ceremonies;
> I am not in Yoga, nor in renunciation.
> If thou art a true seeker, thou shalt see me at once.
> Thou shalt meet me in the space of a moment.
> Kabir says: O Sadhu! God is the breath of all breathing!

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[9] Father Bartoli.

This man felt that he was at the same time the son of Allah and of Ram, just as Ibn ul Arahi felt he was a creature of Jehovah, of Allah and of Ram when he sang:

My heart has become capable of every shape.
It is a monastery for Christian monks,
It is a temple for idols and the Pilgrim's Kaaba,
It is the Thera table and the book of Al-Koran.
I follow the religion of love, whatever be the road taken by camels,
My religion and my faith are the true religion.

Meanwhile Akbar's thought was becoming bolder, and as he freed himself from the habits of a dogmatic creed he rose to the conception of a new faith, based upon an eclectic system, toward a pure theism based upon the cult of Zoroaster.[10] According to Father Bartoli, "when he had assembled the teachers of science and the captains of war of the cities all before him, he said: 'An empire, ruled by a single head, cannot have its limbs divided and loathing one another.' " But he certainly did not intend to impose a single creed on his kingdom. He offered it to those who wished it; otherwise we should not extol him to-day as one of the most liberal and most tolerant men in all history. No one was compelled to accept his creed. Akbar encompassed in it his great dream!

This mixing of Parsee, Sufi and Hindu doctrines, which was not lacking in strong Christian elements and a Buddhistic tinge as well, he called *Dini-Ilahi* (divine faith). His friends and his courtiers—either through conviction or through desire to please him—freely embraced the new religion which had as a basis a most upright moral system. Those who had been compelled to embrace Islam could go back to their former creed, and when the emperor heard one day of a Christian who had denied his faith and taken the turban, he had him brought before him and, reproaching him for his impiety, told him: " 'What miracles did you see performed by Mohammed, that you want to abandon your law for his?' And when the renegade excused himself by saying that he had been led to that step only to remedy his extreme poverty, the king gave him the wherewithal to live, and made him return to the dress and the creed of a Christian." [11]

Severe laws were enacted concerning the customs, the tax on pilgrims was abolished because it meant state infringement of freedom of worship; and, for identical reasons, the poll tax which weighed atrociously upon the conquered Hindus was also abolished. The marriage of adolescents and the custom of burning widows alive were abolished as well, except in cases in which the latter chose death spontaneously. Akbar abolished polygamy, etc. A breath of tolerance, of mutual respect, of conscientious peace, breathed over all the vast flourishing land, and a great harmony descended from the majestic mountains, issued from the sacred rivers and the singing forests, ascended vibrant and redeeming to heaven. As the sun set in the superb valley of the Jumna, the bells of the little Christian churches sent into the air the sweet tolling of the *Ave Maria;* the muezzin called the faithful to prayer from the minarets; the Parsees prostrated themselves before the dazzling majesty of the setting sun and the gaunt fakirs looked at their emaciated forms mirrored in the majestic and slow-moving rivers.

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[10] Sacchini, in his *Historic Societatis Jesu*, shares the sorrowful terror experienced by the good fathers who had witnessed the sacrilegious plan: ". . . as if, as happens in the case of bronze, which is obtained by melting together various metals, he [Akbar] wished to create the idol of a new religion from the monstrous mixture of many religions."

[11] Father Bartoli.

The principles of Akbar's religion aroused on the one hand the gratitude of all creeds, as equally legitimate manifestations of a single aspiration; and on the other hand indifference for any historical form of belief. The future was thus foreshadowed, and a goal attained which is to-day, in the twentieth century, still wrapped in the uncertainty of an unknown future, in spite of the Great War of redemption, of the brotherhood in arms of many nations, and notwithstanding the great Peace Institute of Geneva.

The Dini-Ilahi, however, lacked vitality and did not go beyond the limits, vast though they were, of the court. But the spirit of sincere tolerance which had originated it consolidated Akbar's power more than did all his immense economic and social reforms. India ought to be, to the end of time itself, deeply grateful to this foreign emperor who believed that his people, despised so much by preceding conquerors, were capable of rising to the height of an entirely spiritual cult, one without superfluous forms, images or pompous ceremonies. And even if this creed was extinguished almost simultaneously with its creator's death, and the novelty soon disappeared under the reign of his ambitious, frivolous, faithless son,[12] the spirit of tolerance which emerged from that religious conception has worked incalculable good, perhaps more good than great economic and social laws, and has mitigated the differences that existed in India among the followers of different creeds. Akbar's India stood a great deal higher then than the greatest powers of Europe!

But this creation of the emperor which moves so many of us to admiration for the vast conceptions of his mind was a hard blow for the poor *padres.* The fear that they would never win him to the Christian faith [13] became a certainty, and Father Aquaviva planned to leave the court. Besides, Akbar's determination to send an embassy to the Pope, to the king of Spain and to Father Claudio Aquaviva, Ridolfo's uncle and the General of the Jesuits—all this in order to study the means of introducing the Christian faith in his empire—had failed to be realized, mainly on account of the obstacles which the viceroy residing at Goa had interposed to prevent the departure of Akbar's envoys. For these reasons Father Aquaviva solicited and finally obtained permission to depart. He returned to Goa, and sought and finally obtained the martyrdom he longed for, in the country of the Salsete idolaters. According to Bartoli, when the king and the court received the news of Aquaviva's death in the rôle of a martyr they felt great sorrow, grieving because he had been allowed to depart, "and the memory of his virtue lasted in that country."

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[12] Tennyson, in his magnificent poem, *Akbar's Dream*, imagines that the emperor sees in a dream the ruin of his vast work: "I watch'd my son, and those that follow'd, loosen, stone by stone, all my fair work." (Alfred, Lord Tennyson, *The Death of Oenone, Akbar's Dream, and Other Poems*, London, Macmillan and Co., 1892.)

[13] Father Aquaviva understood the uselessness of his efforts since September, 1580, when he wrote to the abbott of his monastery at Goa: "When we go to see the king in order to teach him, we find him in sorrowful prayer, which these Moors practice with so much assiduity, modesty and reverence, all hypocrisy, that is a thing to be astonished at, and we are forced to see with our eyes the abominations of these whitened sepulchres. Briefly, everything here is Mahomet, and this Antichrist prevails. They kneel, prostrate themselves, raise their hands to heaven in reverence over this infernal beast, and all the alms which they give, and all they do, is in his honor. And we cannot

The mission of the first fathers and those who followed them was certainly not void of results, as they brought to the Hindu-Mohammedans the sincere expression of a pure Christianity, and by their work, greatly aided by Akbar's protection, they increased the Christian groups.

If this prince, who was the most complete and remarkable genius of the Mongol race who reigned over Hindustan, had been succeeded on the throne of Delhi by Dara Shikoh, the great mystic, India would perhaps not have known any more conflicts and bloody struggles between Hindus and Mohammedans. But after the weak and deceitful Selim (Yahangir), the throne was occupied by Aurengzeb, whose fanaticism brought about the decline of the empire. Thus Hindu philosophy, which had shed so much serene light upon the Mussulmans through the Upanishad traditions, and the influence of the Holy Sufi's mysticism, did not bear fruits commensurate with the great seed sown in India. And that desolated land, perpetually convulsed, was not to find peace.

Akbar's moral grandeur deserves the honor of a better known and more widespread fame. The Jesuit source itself, which we have repeatedly quoted, and which is not always well disposed toward him, characterizes him thus:

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say anything about the king; our lives would be imperiled if our reproaches were excessive. We neither die, because they do not kill us, nor do we live, because *Tabescere nos facit zelus noster*, or we live only on hopes: but oh! how uncertain are our hopes, since they turn most of the time to evil rather than good. For if they were only like the souls in purgatory our joy would be like theirs, that is to say there would be a certain expectation of the final certain blessing. But our hope is uncertain (I speak of the king's conversion), although on the other hand the Lord makes us understand that our labors are pleasing to His Divine Majesty and are accepted by Him as much as if we reached our aim. Therefore *Scrutator cordium et renum est Deus*. This is another consolation, that of offering ourselves every day for death, and we are sure that every true son of the company must envy us; for at the end: *Majorem charitatem nemo habet, quam ut animam suam poonat quis pro amicis suis*, although until now we cannot perceive in ourselves this great love, not having as yet shed blood; yet we are in a place where God can give it to us; And therefore I beg Your Reverence, who always loved and helped me, to join me in giving thanks to God, for the great blessing that I owe him."

> Whether it was through art or virtue, he was so much the master of himself that he was never seen otherwise than pleasant or serene. He never assumed an aspect of regal majesty, and would act in a friendly and companionable way even with the lowest, his manners as amiable as one would wish to see in a prince. Wherefore Father Gerolamo Saverio, who for several years had frequent occasion to see him, gives him this praise, saying that he was great with the great, and small with the small. His mind was exceedingly perspicacious. . . . Those whom he raised to high position must never become proud. And to this end he ordered that, whatever might be the dignity of one of these, he must always and in view of everybody, have carried in front of him a tool of his old trade.

But while the great Occidental races love to glorify their great men, among small nations and in the Orient such men are almost hidden from posterity. If Akbar had reigned over a great European nation, his name would be honored and blessed through successive generations.

What he accomplished in India shows impressively how great was his military, political and moral courage. He reorganized the fiscal system of the country, distributing the weight of taxation more fairly, and while his system was more profitable for the public treasury it was felt less by the taxpayers. This was principally effectuated by removing the cause of many abuses and thefts on the part of tax collectors by a strict supervision and a clear separation of income and expenditure. With his new system the taxes yielded annually a sum—remarkable for those days—equivalent to one hundred million dollars, and the empire enjoyed an era of great economic prosperity. His military conquests are legendary. He created a system of strict and impartial justice, and restored to the Hindus, and especially to the noble race of the Rajaputi, whose influence he had profoundly felt, their lost dignity. He left the sect of his forebears without accepting the creed of the Brahmanic majority, and studied all other creeds profoundly and impartially, attaining thus a high scientific conclusion which is summed up in these few words: *God in freedom.*

If his successors had followed in his footsteps King Asoka's miracle would have continued in India, and—time having progressed and the minds of men become more amenable to tolerance—a lasting example would have come from Asia and reached Europe, plunged then in mediæval persecutions. Two centuries had to elapse before the opportunity of granting civil and political rights to the Jews was discussed without visible result at the Congress of Vienna, and in the British Parliament Catholics were made equal to other citizens but slowly and unwillingly.

But good things do not win a victory as easily as do evil things, and, avoiding useless lamentations against the fatal destiny which oppresses humanity, let us point out these shining examples from the past which mark, for those who navigate the sea of life, the landing place on the shore of peace, liberty and love!

Frascati, May, 1925.

THE SUPERIORITY OF ANCIENT AND MODERN ASIA IN THE EXPOSITION AND APPLICATION OF FREEDOM OF CONSCIENCE

I RESUME the course of my lectures on religious freedom which were interrupted by a brief Cabinet accident,[1] and I do this under the auspices of the great moral events of these last days.

The intensity with which minute researches, the most scientific possible, were pursued from this chair, foretold in a way the religious controversies which have been going on in various parts of the world. The lofty and passionate politico-ecclesiastical discussions in Scotland and above all in France, with reverberations in the church of Rome, seemed to announce a new era, a new evolution of constitutional law.

All the states, large as well as small, Great Britain, Spain, even Russia, the Swiss cantons and the city of Trieste, are now under a sort of spell, exercised for good and for evil by the French republic. Everywhere we hear people speak, often without precise or profound knowledge, of the separation of church from state, with the same facility which, in times of reaction not far removed from us, was used to negotiate a concordat. An eminent and pious bishop who, in a letter to his flock, invoking the example of the first epochs of Christianity, indicated for the Catholic church the convenience of accepting the principle of separation, was reduced to silence, thus giving occasion for the cry of papal tyranny repeated in Italy, a cry echoed in these days from many political rostrums.

Truly this is a strange tyranny which, deprived in our times of every civil or penal sanction, of every temporal power, can be fought and conquered with a simple motion of rebellion, and receive the applause of politicians and noisy public opinion!

Religious freedom means also the rule of souls over souls, the individual judgment which, by spontaneous choice, defers to that of the creed to which one belongs. There may be an iron discipline, not imposed by force, which, willingly accepted, breaks as soon as doubt arises, and frees the conscience from its spiritual yoke.

In the face of these formidable spiritual problems, the human mind, composed as it is of light and darkness, of serene judgment and foul passions, may degenerate in such a way that it calls by the name of freedom the violent activity of governments and laws which aim to impose on the churches solutions different from those which the churches believe to be the only ones that guarantee their salvation and independence.

Surely, in our opinion, the bishop, whom we cannot call a rebel, since he kept silent as soon as he was admonished, had hit the mark of constitutional justice. Vanquished to-day, he will surely triumph in the near future. His historical quotations, taken from the earliest fathers of Christianity, were exact and might also receive fuller and more conclusive development, as when they were read and commented upon from this chair.

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[1] This lecture, delivered at the University of Rome from the Chair of Constitutional Law on the 16th of December, 1906, alludes to that of 1905 which follows here by reason of its subject matter. It develops and completes the thesis maintained in the chapter on Asoka.

The Christians—persecuted, vilified, torn to pieces by wild animals, burned alive, crucified—consecrated religious freedom, and the church was then sublime in its manifestations. It was a union of chosen souls, maddened by inexpressible sorrow, illuminated by the thought of imminent redemption! That dawn of faith was the most immaculate and fascinating, because it was stained with the blood of martyrs and not with that of persecutors.

But, to go back to the point where we started, since these immortal controversies are reborn in our times with renewed vigor, we may safely assume that in the first part of the twentieth century the legislative activity of all free states will be devoted to meditating upon the great politico-religious problems and solving them. The deep and disinterested study of these problems is forcing itself into continually greater prominence in the universities, and must do so if these are really to be qualified as vital centers of thought and action.

While positivists and agnostics announce the exhaustion of faith, the latter is destined to illumine with new and pure flames the souls of scholars and legislators, particularly in the matter of the separation of church and state, in the organization of public charities, and in religious instruction in the schools. Never did such arguments burn so vividly, never did they demand juster solutions from the science of public law, so that they may dominate the overbearing tendencies of prevailing parties, and become fit to give a concrete definition of religious freedom in the laws; bring it into the institutions and consolidate it in the customs, motivated by the great principle that every single individual conscience must enjoy the right to be respected and protected just as thoroughly as the most overwhelming majorities. Where this new protection, afforded by public law, is lacking, persecution of faith or unbelief will never be wanting. It is the essence of human nature not to know how to lift one's soul to God without thinking of one's neighbors who pray to him in other ways, or refuse to pray to him; and grieve sincerely for it. From grief to proselytism the step is short; just as the line of demarcation between proselytism and persecution is slender. And we may add that these minds, grieving over the heresy of others, strive eagerly to defend the purity and the integrity of those who practice their religion. The modern schools, science, art, parliaments, everything is full of temptation, which the liberty invoked by philosophers and positivists, as well as by believers, sharpens and spreads. Therefore persecution becomes, as it were, refined, and changes its name and form, except in Russia, which is still mediæval. Persecution does not become manifest with massacre and slaughter, but nestles almost unperceived in the innermost recesses of conscience, survives in customs, and forces the law of nations to deepen its research to the nethermost roots of society, poisoned by the old disease and drawing so much violence and iniquity from that very heaven which has the function of quieting them.

On the other hand, Voltaire's cruel mockery, changed by some sections of triumphing democracy into dogmatic precepts, declares without scruple and with tyrannic brutality that the duty of the modern state is to fight religion, as it would any other error or disease of the human mind.

Between these two opposite and mutually exclusive tendencies the law of nations interposes itself, arbiter and benefactor, which, if considered from that height, assumes the task of *savior.* It is inspired, like every other kind of law, by the experience of nations, the luminous intuition of the precursors, the apostles, the great thinkers. It has its great *creative nations*, like Rome for civil law and England for political guarantees, its jurists, its *pilgrim prætors*, enlightened by supreme justice. As an immortal proof of our human nature, it has never happened in history that beside persecution, toleration did not shine, weak or strong, and this I have attempted to demonstrate in my studies.[2] In this respect European civilization and that of the United States of America, which is an offshoot of it, do not possess a monopoly of religious freedom, as is generally said, in accordance with the habitual affirmation of the infallibility of white and Christian people. The Asiatic continent (China, Ceylon, India, especially Japan which is the shining center), the entire Buddhistic world with more than four hundred and fifty millions of believers,[3] outside European and Christian influence, has written pages that will not die in the book of the law of nations, and has supplied examples worthy of history and song. I should like to prove this in this lecture, which opens my course, joining the remote past with the present striking revelations of Japanese greatness, a greatness that was moral before it was military,[4] and the savor of novelty may perhaps win for me your kind attention.

Freedom of worship in Europe and in the Americas nearly always originated in political compromise or in a treaty concluded after a long and hard struggle. Those who fought for their beliefs, exhausted by slaughter and poverty, agreed to a truce more through necessity than through sincere persuasion. Religious prejudice persisted, but weariness brought the slaughter to a close. The two parties were resigned to forego exterminating each other because they were of almost equal strength.[5] In Asia, on the contrary, in mysterious India—nearly six hundred years before the Edict of Milan of 313 A.D. with which Constantine announced the legal truce of reciprocal tolerance between dying paganism and triumphant

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[2] The greater part of these studies is now published in this volume.

[3] Buddhism passed to Ceylon from India and afterward spread in Siam, Burma, Nepal, Thibet, China, Japan, etc. Consult Max Müller, *Chips from a German Workshop.*

[4] This was written immediately after the close of the Russian-Japanese War.

[5] "It was the Thirty Years' War which destroyed forever the hope that the division of Christianity could be abolished by force." (Lord Acton, *The Thirty Years' War*, published by the Cambridge University Press, declares that there the new tendencies began to appear, which place in relief the function of religious freedom in history.)

Christianity, proclaiming a freedom which was to last only for a short time—a Brahman king converted to Buddhism,[6] Asoka, became the herald of political equality for all men, expressed in powerful guarantees of religious freedom. He placed the redeeming symbol of peace upon Brahmanism, Buddhism and Jainism, three contrasting creeds in India; and proclaimed the unlimited freedom of belief. In that same historical cycle Athens, the most learned of the republics, sentenced Socrates to death for offenses against the gods of the country, and Socrates accepted his sentence in resignation; having no conception of religious freedom, he did not offer it as an unassailable argument against the fatal decree. The divine Plato, who had seen the most just of philosophers die, excluded even the possibility of citizens not adhering to the state religion, and declared that even when they abstain from every form of propaganda they do harm by their example. He punishes them with five years' imprisonment during which time the prisoners must listen every day to a sermon, in order that they may be brought back to the true faith. And if the atheist, the man who denies the local gods, be impelled by the ardor of propaganda to try to seduce believers, citizens of that perfect republic, then he must be placed in a horrible dungeon, and must even be denied a burial place after death.

The penalties threatened by Plato in his immortal *Laws* were actually put into practice, from Socrates' hemlock to the flight of Aristotle, who wanted to thwart a new attack on philosophy in Athens.[7] And while these tragedies were taking place in the freest city of the ancient world, there came from distant India a loftier doctrine of emancipation of religious conscience.

Now, listen to the liberal gospel of the wise and melancholy king:

> King Piyadasi, dear to the gods, honors all the sects; the ascetics (hermits) or the dwellers at home; he honors them with charity and in other ways. But the king, dear to the gods, attributes less importance to this charity and these honors than he does to the vow of seeing the reign of virtue, which constitutes their essence.
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> For all these virtues there is a common source, modesty of speech. That is to say, one must not exalt one's creed, discrediting that of others, nor must one degrade these others without legitimate reasons. One must, on the contrary, render to other creeds the honors befitting them.
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> By acting thus we contribute to the progress of our creed, serving

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[6] I wrote of Asoka for the first time in 1892, and it seemed to me then the revelation of an unknown story. I reproduce that study in the present volume. Here the great king's doctrine is associated with that of Buddha, a fact which I did not clearly perceive in 1892. Professor De Lorenzo, who explores with equal learning the mysteries of nature and those of ancient Asiatic history and is one of the most powerful intellects of our time, has been kind enough to acknowledge the originality of my research.

[7] See Lange's *History of Materialism* and the cases of Protagoras, Anaxagoras, Theodore called the Atheist, Dionysus of Apollonia. . . . Similarly in Geneva, a great center of culture, all the citizens were obliged to be enrolled in the theocracy of Calvin, as terrible as Plato in his provisions against sacrilege.

> the others. By acting otherwise, we harm our own faith, bringing discredit upon the others. He who exalts his own belief, discrediting the others, does so surely to obey his religion with the intention of making a display of it. But in behaving thus he deals it the hardest blows. And for this reason, concord is good only in so far as all listen to each other's creeds, and love to listen to them. It is the desire of the king, dear to the gods, that all creeds be illuminated, and that they profess pure doctrines.
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> All, whatever be their faith, must learn that the king, dear to the gods, attaches less importance to charity and to external observances than to the desire of seeing the essential doctrines and respect for all beliefs, reign. The supervisors of religion, the official in charge of the supervision of women, and other agents of public authority, labor to obtain this result.
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> The profit thereof is the advantage of one's own faith and the light of religion.[8]

Sincerity is, for the great king, the source of freedom of conscience and of worship. To love dissenters also, to find in the heart of one's own belief reasons for respecting the beliefs of all others, never to be satisfied with the appearance of external forms which savor of hypocrisy . . . these are the golden precepts which sum up the most solemn thoughts in the first decrees on religious freedom.

Until the promulgation of these decrees, the God of every people was a national, an avenging, God. Religion was confused with country. Just as one does not see humanity outside one's country, so one sees only error outside one's own belief. The value of this Indian example lies in the fact that its basis is exclusively ethical, without any admixture of political and conventional elements. It addresses the believer in the name of his belief, and labors to persuade him of the fact that by respecting other creeds he honors his own. There is no politic thought nor opportunist argument in those affirmations. Each conscience, reasoning in an intimate and mysterious dialogue with itself, concludes with the veneration of other consciences tormented by mystic restlessness. The world is full of heavenly seed; they flourish in different forms, but their essence is all redolent of divinity! While we habitually see devout love for one's own religion produce theological hatred for all others, the opposite tendency is manifested in the document cited here. The great king desires that every one should practice his own religion, not only in form, but in substance. The most deserving of believers is the purest and most loyal; faith is the substance of sincerity. The ardor of proselytism must not generate the spirit of persecution, and not even the desire to flaunt one's pride in it. God must be served in humility and modesty. St. Paul thereafter says: "My strength is derived from my weakness."

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[8] Edict VIII inscribed upon pillars. For the discussion of these texts I refer the reader to my previous study, published in this volume. See also Edicts VII and IV, XV and X, VI and III, and the first, as a commentary on the thesis discussed here. I am again quoting this admirable expression of religious justice purposely, because it is intimately connected with the discussion.

Before the mysterious problems of our origin and our destiny every sincere solution, obtained at the price of sacrifice and sorrow, is dignified and sacred. It excludes pride, boastfulness, the presumption of infallibility, in which tendencies lurks the seed of persecution and of theological hatred. Therefore the magnanimous king desires that every belief, whatever it may be, grow in fame and strength. Every improvement, every growth, every religious progression, must arise from the very depths of the soul, not from conflict and envy. There is a patrimony of common moral blessings: loving respect for our parents, gentleness to our friends, charity, temperance, respect for the lives of men and animals. Every creed ought to make these holy tenets its own, to develop and preach them; and it must not express itself in proud boasting, in minimizing the merits of others, but in goodness of deeds. What can better lead naturally perverse minds to docility and kindness than obedience, respect, love and all the other virtues? The great stumbling-block in life is evil; what teaches us better how to avoid it? But we need deeds rather than words; goodness is not a doctrine, it is a practice.

The diversity of churches must not exclude harmony; religion, being the greatest of virtues, cannot engender anger or division. Those who belong to different creeds ought to live in neighborly peace, trusting each other, aware of all they have in common in a higher brotherhood of ideals. The mission of the ruler ought to be that of maintaining inviolate all the sacred fires of diverse beliefs which burn in the hearts of men, and to rejoice that they glow continually, as votive altars to heaven, lighting up consciences and leading mortals to virtue.

The profound originality of the case which we are examining consists especially in this, that freedom of worship does not arise under the form of toleration, from a political compromise between conflicting beliefs, nor from the amiable skepticism of an indifferent government, nor from a vague and colorless theism; but it issues from the very fountainhead of religion, and is, as it were, faith in the goodness of faith, an attitude of the mind which makes faith and freedom two forms of a single substance.

This great king did not invent the principle of spiritual freedom. What he did was merely to translate into action the lessons of his great teacher, Buddha. The principle of freedom of conscience, through liberation of conscience, comes directly from Buddha. He is not, nor does he declare himself to be, God, but only a redeemer of souls. He is not the Heavenly Father; those who do not follow him do not commit a capital sin against the Supreme Being; he is a herald of the moral order of the world. Salvation can be attained by all, even by those who belong to other creeds. Happy are those who follow the most direct line which, for Buddhism, is naturally that traced by Buddha.

"Master," a wayfarer who moves toward Buddha asks of him, "every priest or monk praises his own belief and asserts that it is the only true one, and condemns those of others as false. Doubt torments me. I do not know to whose words to listen."

The Master answers:

> Thy doubts can be stilled; listen to what I tell thee.
>
> Do not believe anything merely because thou hearest it; do not believe traditions because they are old, and have come down to us through many generations. Do not believe anything because it is famous or because men speak much of it. Do not believe only because thou hast before thee the written testimony of some wise old man. Do not believe a thing because probabilities speak for it, and because an old habit induces thee to consider it true. Do not believe anything only on the authority of thy teacher or priest.
>
> What is consistent with thy reason in the light of thine own experience and thine own search, and serves thy well-being and thy health, as well as the well-being and the health of all living beings, take thou that as the truth, and live in accordance with it.[9]

In this doctrine *regeneration* lies in the spontaneous renewal of the inner man; *vocation* is determined by freedom.

And here too the essential point is found in absolute sincerity. Buddha says:

> No mortification, no tonsure, no prayer, no fast, penance nor life of poverty can purify him who has not conquered his passions.
>
> What is the good of thy tonsured head, O foolish one, or of thy ragged garment? Thy external aspect simulates saintliness, but malice dwells within thee.[10]

As we have seen, the saintly king followed in his decrees the example of the Master, and his virtue passed on to his successors. The history of India narrates the noble deeds of Kharavela of Orissa who, one hundred and twenty-nine years after Asoka and one hundred and three years before Christ, talks and acts like Asoka. He, too, is a precursor of religious freedom; the name which he assumes and which he honors is that of Protector of All Beliefs.[11]

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[9] Angúttara—nikójo.

[10] *Dhammapadam.* For a profound, not superficial, comparison of Buddhism and Christianity, or better of Buddha and Christ, see the great Neumann's work *Innere Verwandtschaft buddhistischer und christlicher Lehren*, Leipzig, 1891.

Neumann has translated in three volumes, *opus magnum*, all of Buddha's discourses, in collaboration with Professor De Lorenzo, to whom we owe now the Italian translation of this monument of ancient Indian wisdom, published by Laterza.

[11] See the work of Vincent A. Smith, very deficient in the development of the constitutional theme on freedom of worship, entitled *Asoka the Buddhist Emperor of India*, Oxford, Clarendon Press, p. 40, where he speaks of Kharavela of Orissa.

For Kharavela's inscriptions see Cunningham Corpus, *Comptes-rendus du Congrès des Orientalistes;* and Buhler's much more important work, *Hatigumphâ and Three Other Inscriptions.* Kharavela proclaimed himself *Savapàsamdapujako* (protector of all beliefs). The date of Kharavela's inscriptions is 103 B.C., the thirteenth year of his reign.

But their ideal of liberty emigrates, as do their gods.[12]

Robert Knox, in his narrative of his voyage to the island of Ceylon between 1660 and 1680, tells how the Buddhists in that island respected Christianity. The king of Ceylon often appointed Christians to public offices. The Mohammedans were also free to practice their religion; charity was distributed among the poor, whether native or foreign, Buddhist or non-Buddhist. Even in times of decadence the spirit of the Master moved all men to respect all creeds.

In India and in neighboring countries, Great Britain—like ancient Rome, glorious pacificator of men and gods—has succeeded in making Brahmans, Hindus, Parsees, Mohammedans, Buddhists and Christians of various sects live together, cultivating religious freedom, respecting all beliefs, treasuring and vivifying the ancient redeeming spirit, which was never extinguished in Asia.

There is a whole political literature upon this subject, which it is my intention to examine in its various aspects. England, like ancient Rome, was obliged to become pantheistic, as it enlarged the boundaries of the empire. But the representatives of ancient Rome had a more flexible conscience, and England found unexpected difficulties. In 1838, for example, the British Government wished to have some repairs made in a place open to the prayers of the Brahmans, and gave orders to the finance office at Calcutta to carry out the work at government expense. A strange answer came from the Protestant government official. He regretted that he could not obey, as it was repugnant to him to add to the splendor of a creed which is not that of the true God.

But England, following the example of Latin wisdom, has fortunately always found more accommodating officials,[13] resisting Protestant pietism, which would have caused the shedding of blood and tears, and succeeding in ending certain criminal and dangerous practices of ancient Hinduism without clouding the integrity of those beliefs.

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[12] No violence or force ever accompanied the development and diffusion of Buddhism in India and outside of India. It spread throughout the Orient, tolerated by the other religions, which it in turn respected. The most cultured and enlightened men of those Eastern countries knew and adopted the Buddhist doctrine, and communicated it to their fellow countrymen as an ideal dispenser of peace and serenity. Buddhism, after flourishing in the valley of the Ganges for over a thousand years, degenerated little by little and was blended with Hinduism, which in its turn was a product of a degenerated Brahmanism mixed with the religion of the great Indian epics. But it was not extinguished by violence.

[13] Sometimes the British rulers of India went too far in their zeal to protect all the Indian religions, and the British Parliament often tried to moderate their fervor. For example, on November 16, 1842, the Governor-General of India, Lord Ellenborough, issued a message concerning the restoration of the gates of the temple of Somnauth, which was dedicated to Shiva, the god of destruction. He was thus rendering homage to Linganism, the most pernicious form of Hindu idolatry, and was disobeying the precise instructions of the government, which prohibited interference in affairs concerning heathen temples and denied the use of troops for homage to an idol. Lord Ellenborough had ordered the soldiers to escort his offering (the gates) as far as the temple of Somnauth. Besides, while having strict orders from his government to use the same treatment towards all religions, he had rendered public homage to one while insulting another, the Mohammedans, because he had removed the gates of a mosque, with the intent of avenging the insult rendered eight hundred years before by the Moslem ancestors to the Hindus.

The motion against this apparent sanction of Hindu idolatry and against the "indecorous, reproachable and unwise" conduct of the Governor-General, introduced by a member of the House of Commons on March 9, 1843, and sustained by eminent men, was rejected by 242 votes against 157.

In China, through the teachings of Confucius and the dissemination of Buddhism, the different creeds lived peaceably together.[14] What wonder that in Japan such virtue is welcomed, cultivated and propagated, and that freedom of worship shines in that country like the latest and purest blossoming of such a great inheritance of examples?

Japan was always animated by the vivifying breath of liberty. Even before the granting of the constitution by the emperor, on the eleventh of February, 1889, the decree of the twelfth of August, 1875, declared that the Buddhist and Shintoist priests ceased to be state officials, and entrusted church government to the religious authorities.

Fourteen years later Article 28 of the new constitution proclaimed freedom of religion for all Japanese subjects, within the limits of respect for public peace, order and patriotic duties. This article of the constitution caused the austere mind of Pope Leo XIII to rejoice,[15] and he took full advantage of it. Catholics and Protestants are to-day contending for the spiritual conquest of Japan with full liberty and with every form of propaganda, from church to school.[16]

Some writers have wondered at so much fairness, attributing it to the indifference and atheism of the Japanese. The reproach is not justified, and amazement at such moral greatness can be found only in the minds of those who do not consider the origins and first causes, as we have done, or who cannot understand how a religion can exist if it does not monopolize the salvation of men, or if it is not stained with fanaticism.

In order to disclose Japan's religious mind, we choose, among many documents which are before us, one which is furnished by the *Osservatore Romano*, a newspaper recognized as the organ of the Vatican. That daily contains in its issue of November 22, 1906, an interview with Father Steichen, a missionary who lived in Japan for twenty years.[17] The interview may be called a hymn to the hospitality of the yellow race. Father Steichen declares that in Japan public opinion was always favorable to missionaries, or at least tolerant and respectful. No authorization is required for residing wherever they please; the ecclesiastical garb does not bring any insult or persecution, and the missionaries conduct public funerals and processions amid general respect. No one, says Father

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[14] See Lyall's two volumes, *Asiatic Studies*, Murray, 1899.

[15] Leo XIII had created in Japan in 1888 a third Vicarship, that of Central Japan. He created a fourth one on the seventeenth of April, 1891, and on the fifteenth of June of the same year he organized the Catholic hierarchy in Japan, raising Tokyo to the honor of an archbishopric with three suffragan bishops in Nagasaki, Osaka and Hakodaté.

[16] The activity of Christianity may be very great in Japan. In the *Missionary Record of the United Free Church of Scotland*, January, 1906, this mission of Christianity is shown to be necessary, and it is even exaggerated. *Does Japan need the Gospel?* But since there is freedom of propaganda he will win who deserves victory.

[17] The interview that the *Osservatore Romano* refers to, comments on and praises, was first published in the Belgian newspaper *Le XX^e^ Siècle.* We are trusting to the text of the Roman newspaper. Our introduction speaks fully on that vital point of the schools.

Steichen with a bitterness which poorly conceals his grievance against the French government, no one would dare to say in Japan that in order to be a good patriot one needs to insult the ministers of a creed and attack their work of peace. . . .

The newspaper which published the observations of the Catholic missionary compares Japanese patriotism, shining with so many heroic deeds, with what it calls the "street patriotism" of the demagogues of civilized Europe.

We have come to this! In the columns of the *Osservatore Romano* Japan appears as a paradise of religious freedom and of patriotism, in comparison with other countries which we know, and it may be partly right. The article observes and praises the right to open Catholic schools in that country:

> The Japanese believe that to oppose a school only because it is Catholic is a shameful crime . . . and perhaps they would not believe it if they were told that there is in Europe a nation, Italy, where the government is apparently powerless to fight the predominating illiteracy but is satisfied with waging war against *obscurantism*, opposing the Catholic schools which are guilty of being better than those supported by that government, and allowing the rabble to insult them.

The writer does not wish to close any school in Italy, but he harbors patriotic fears that the Italian primary schools, those supported by the government as well as those supported by the Catholic church, are both, for different reasons, equally mediocre.

Father Steichen assures us that there are Catholic Japanese occupying posts of high rank in the army, and the good missionary's assertion is fully true. In fact a careful examination of important and reliable publications [18] demonstrates that freedom is not only written in the statutes but also rooted in custom, differing in this respect from certain European countries where custom does not sanction the law.[19]

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[18] I might quote a great number. See especially: Stead, *Japan by the Japanese*, London, Heineman, 1904; Baron Suyematsu, *The Problem of the Far East*, Paris, Hachette, 1906; André Belessart, *La Société Japonaise*, Paris, Perrin, 1902; Pierre Leroy-Beaulieu, *La Rénovation de l'Asie*, Paris, Colin, 1900. Pierre Leroy-Beaulieu insists on this essential point, that even when expulsions of foreigners were ordered in Japan, after Christians and European civilization were admitted in the sixteenth and the seventeenth centuries, they were provoked neither by religious fanaticism nor by popular hatred, sentiments which were non-existent in Japan even then, but by political motives (I, 176). Emperor Jyeyasu, who expelled the Jesuits and all Christian missionaries, did it when he perceived that their cassocks were hiding political schemes. As he had been broad-minded in toleration, so was he inexorable in extirpation. See also J. Morris, *Makers of Japan*, Methuen, 1908.

[19] Sometimes even in Japan the populace makes a show of intolerance, but the government moderates it. The Trappists at Hakodaté were discussed by the Japanese press for several months. A great Tokyo paper called them "strange foreigners": their assemblies were strange, composed of French, Dutch, English and Italian members of the order; their practices were strange. Whence do they come? Are they not perchance Russian spies? Or are they the crew of some shipwrecked whaler? Public opinion was

In Mr. Stead's collection of works on Japan, representing the most important native authorities, we find that Kataoka, who died some years ago and who was one of the leaders of Japan's most important political party, was a Christian. He presided over the Chamber of Deputies for several sessions, and died while occupying this high office.

Even the Salvation Army—which, it seems, saved several thousand *Geishas* with the aid of local authorities [20] and the Mormons, restricted only by the obligation to abstain from propaganda in favor of polygamy, which is incompatible with the strictness of Japanese family organization, enjoy full liberty. Japan is in truth the free port of all serious beliefs and all religious follies. And this does not seem to have prevented that privileged race from thinking and accomplishing great things.

The truth is that the redeeming spirit of true liberty has passed over that race. In our old Europe we are still invoking it and waiting for it.

These Asiatic experiments—if the ardor of my research has not deceived me—must take a leading place in the study of constitutional institutions. Where was freedom of conscience born, derived from inner reforms? In Asia. How is it justified? Not by the opportunity of compromise, but by deep and intimate reasons of spontaneous faith, substance of sincerity. What are the effects of such a lofty doctrine? The moral greatness of the nations which practice it, a greatness which is translated into the heroism of a new miraculous patriotism that leaves us lost in astonishment. And what wonder then that a race which has professed for so many years the vivifying cult of the most glorious religious freedom has conquered another made sterile by isolation originating in persecution? The God of victory tempers the hearts of men to the struggles for freedom, and does not countenance the slaves of a despot or of a dogma of intolerance!

Religious freedom is freedom *par excellence*, since it embraces and measures all the other kinds of freedom, and even by itself alone saves the nations from the rottenness of tyranny or demagogy. Therefore by different roads everything ascends, and can be traced back to this freedom, which is the torch of progress, the lamp of public life, the origin and principal cause of moral and material power. It permits the acquisition of all other benefits, but without its aid the souls of nations wither like roses deprived of dew. Within the freedom of religious conscience we find freedom of science, which drops from it like a ripened fruit.

The mission of the law of nations is to protect the infinite freedom of conscience and the infinite freedom of science. The former contains in itself the moral progress of a nation, the latter, its intellectual progress.

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aroused, and the emperor, who was in his great qualities Asoka's legitimate heir, sent a chamberlain to get information and distribute subsidies, if these "strange foreigners" happened to be in want. An official inquiry was made and resulted favorably for the Trappists. A newspaper, the *Sáppero*, printed their vindication.

[20] General Booth, leader of the Salvation Army, visited Japan to investigate the work of the Army, and declared himself fully satisfied with it.

The state which dares to impede their destined progress in violation of the law of nations is doomed to certain catastrophe. Whoever wishes to declare that faith is swallowed up in science, excluding the former in the name of the latter, commits the same crime as a theocracy which wishes to sequester science in faith.

St. Paul said admirably in his first epistle to the Corinthians: "And though I have the gift of prophecy, and understand all mysteries, and all knowledge; and though I have all faith, so that I could remove mountains, and have not charity, I am nothing."

Lucere et ardere perfectum est; [21] *lucere* is the intellect, *ardere* is the heart. Perfection is their perfect union, multiplying the effects of light and heat.

Imagine Socrates and St. Francis of Assisi fused in a single soul; the roses of Hellas grafted on the thorns of Galilee. Then we should have reflected upon the earth that divine love which is the highest wisdom and the highest virtue. . . .

In expectation of these miracles of science and of faith, created through spontaneous evolution, we end as we began, invoking freedom of worship and freedom of thought, freedom of conscience and freedom of science! Victory will smile upon the nations which will make of freedom the daily nourishment of their souls.

AN ADMIRABLE DEMONSTRATION OF RELIGIOUS FREEDOM IN PERSIA [1]

Edward Brown lends the voice of European civilization to the sect of the Babists, persecuted in Persia, translating into English the story of their tragic sufferings as narrated by a martyr who experienced them.[2]

The Babists, who wished to improve and spiritualize Persian Mohammedanism, had their seven martyrs. In Teheran in 1852 they had their eve of St. Bartholomew, which Renan calls "*un jour sans pareil peut être dans l'histoire du monde.*" [3]

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[21] This is St. Bernard of Clairvaux's golden sentence.

[1] 1909.

[2] *A Traveller's Narrative*, written to illustrate the episode of the Bab. Edited in the original Persian and translated into English with an Introduction and Explanatory Notes by Edward G. Brown, M.A. M.B. Fellow of Pembroke College and Lecturer in Persian at the University of Cambridge, Vol. II, English Translation, Cambridge University Press, 1891.

Mr. Brown visited in Persia—amidst great difficulties and hardships—the centers of the Babists, questioned them and studied their work. Gobineau wrote also about the Babists in *Les religions et les philosophies dans l'Asie Centrale*, Paris, 1865-1866. See also Vambery, *Meine Wanderungen und Erlebnisse in Persien*, Pest, 1867, pp. 286-303, and Baron Alfred von Kremer, *Geschichte der herrshenden Ideen des Islams*, Leipzig, 1868. Twenty pages (202-222) are dedicated to Bab and his doctrine. See also another interesting work *Seyyed Ali Mohàmed dit Le Bab*, par Nicolas, premier interprète de la Legation de France en Perse, Paris, Dujavric, 1905. See also the important study by Dreyfus, *Sur le mouvement béhai*, Bab's disciples. The *Journal Asiatique* of 1866 traces in a series of articles Bab's life and doctrine.

[3] *Les Apôtres*, p. 378. Renan depicts Bab as a kind of modest and pious Spinoza. Thousands of martyrs went to death with joy, with his name on their lips; women and children died heroically proclaiming their faith in him. These devotions and these

Be that as it may, a wicked minister, without consulting the sovereign, who was a minor, decided to exterminate the sect with the violent tool of persecution, imagining, says the anonymous Persian historian, reasoning as a professor of constitutional law would do, that arguments and elements of such spiritual nature can be uprooted and suppressed by force; by interfering in a matter of conscience, greater vigor and publicity is given to them. The more you strive to extinguish it, the more the flame burns, especially in religious questions, which gain so much credit, as soon as blood is shed, and obtain a strong mastery over the heart of men. . . .

As we know it now, these apostles were trying to introduce in Persia in 1868 (almost a century after the French Revolution) the rights of man in their implication of religious freedom!

Their leaders languished in prison or in exile outside of Persia; the disciples addressed an admirable petition to the king, which is here summarized.

They begged him to secure personally, direct information about the Babists' faith, which had no reference to political or mundane aims. Their supreme end was spiritual; foreign therefore to the affairs of the government and the powers of the throne. To educate the mind, purify the heart, reform character, these were their aspirations. It sounds like the defense of the Protestants after 1500 against the Spanish persecutions! And they continue with lofty reasoning:

The king ought to protect all his subjects, whatever might be their belief. The new sect having just aims, a just government must feel the obligation not to interfere with intimate matters of thought and conscience, which are private property of the heart and soul. How much illicit interference happened in this matter, how many complex efforts were lost, how much blood was shed, how many heads were cut off in Persia, too! Thousands of persons were killed, thousands of women and children languished in prison or in exile; homes were destroyed, families deprived of their heads and of their property! Still, nothing was obtained, there was no remedy for anything. Instead of disappearing, the so-called heresy increased rapidly.

One of the functions of the government is that of ensuring freedom of conscience, the tranquillity of the heart and of the soul; which is a cause of the progress and rise of other countries.

The greater states obtained predominance and reached a high degree of influence and power only when they set aside the struggle of sects, treating all classes of society with the same mildness.

All form the same people, the same nation, the same species, the same humanity! The field of common interest lies in full equality; jus-

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sacrifices are not inspired without having something divine in human nature. Gobineau and Vambery assert that the women and children knew how to die as heroes. . . . Because the Babists had conspired and some of them attacked the head of the state, it is easy to imagine the cruelty of the repression in Persia!

tice and equality for all mankind constitute the most effective agencies of empire for the principal promoters of states.

State interference in the various beliefs is a manifest cause of mischief and trouble. The state must use its power to prevent the evil caused by political factions and materialistic sects. But when a belief is sincere and pious, and teaches obedience and all other virtues, then the state has the obligation to respect it.

The admirable petition that we are here examining recalls that memorable historical period when the powerful government of Persia did not interfere with the various creeds existing in the country, and the different believers, united, followed the standard of the great king. That was the period of Persia's prosperity and power, which is connected with respect for all religions. But when the custom of interfering with the beliefs of the various sects and of exploring the intimate religious thoughts was resumed, then Persia saw her dominion diminished. She lost the provinces of Khuran, of Syria and of Chaldea, and, why not say it? even the greatest part of the Kurdistan region was lost to Persia through offenses to freedom of conscience and the fanaticism of the rulers. To this also must be ascribed the independence of Afghanistan and the revolt of the Turkoman tribes. With these proofs of clear damage, what necessity can there be to persecute the innocent? Violation of religious freedom diminishes empires. . . .

These recollections of the simple Oriental Persian Babists make one think of the words of the Dutch, persecuted for the same reasons by Philip II. Intolerance gradually destroyed the Spanish empire. The principle that the greatest redeeming idea is closely bound up with the peace and greatness of the state shines nowhere better than in these Persian arguments.

From the governments of the Orient, weak because intolerant, the eyes of those mild Teheran mystics turn with longing glance to the nations that live on the shores of the Atlantic and of the North Sea, perennial proof that religious peace is connected with enduring greatness.

> With the teachings of these laws, with liberty of conscience, and with fair treatment for all religions and nations, they [the English] succeeded in placing under their dominion nearly all the peoples of the world.
>
> Thanks to these principles of freedom they increased day by day the strength, the power and the vastness of their empire amidst the affection of the nations which extol their justice and fairness.

And, searching into the innermost depths of the soul, the framers of the petition observe that man is responsible for his faith to divine justice; both soul and conscience are under the control of God and not of His servants, of the king of kings, and not of the king. And they quote the two following passages of the Koran:

"The roads that lead to God are as the number of the breath of His creatures.
For every nation we have supplied a separate rite." [4]

If the time lost to persecute ineffectively—because we cannot fight against a thing which is invisible, intangible and incoercible as faith is—were spent for the greatness and the happiness of the state, the kingdom of Persia would indeed be more prosperous.

Thus we find now, added to the ancient Buddhist example, renewed and triumphant in Japan, this more recent one, issued from the vigorous soul of a chosen group of Persian redeemers. Asia had her spokesmen in the dawn of religious freedom in Buddha and King Asoka, and closes toward the end of the last century with Babism.

All this demonstrates that God, transubstantiated in the freedom of belief, is a common patrimony of all mankind, and ends by imposing freedom for the interpreters of Christ as well as for those of the Koran!

A FORGOTTEN PRECURSOR OF FREEDOM OF CONSCIENCE [1]

(Themistius)

THERE will be found here, summarized in a few pages, some studies of mine on freedom of conscience and of worship, justly called the most human and most divine of all constitutional liberties, without which every form of worship is a lie, every philosophy vain and fallacious. It will perhaps not displease my readers to trace back with me the remote origins of the doctrine regarding this type of liberty, precious as it is.

As knoweth he who life for her refuses.

Though this freedom was only recently partly accepted in constitutions and laws, after a bloody and continuous struggle, it had nevertheless found centuries ago a zealous reception and a sincere cult in certain great minds who sighed with longing, not for a God of hatred, vengeance and massacre, but for the God of love and peace, before whom all men are equally brothers.

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[4] *Koran*, XXII, 35. This passage is quoted with the boldness of innovators. This is a modernist interpretation of the *Koran*. Here is the exact text: "For every nation we have established a rite, so that men may respect the name of God in the nourishment which He grants for their flocks. Your God is the only God. Abandon yourself entirely to Him. And thou, O Mahomet, announce the propitious news to the humble. . . ."

[1] This small discovery was made by me in 1885 and it was announced in a lecture delivered before the *Istituto Veneto di Scienze e Lettere.* The studies which have since been published about Themistius have not induced me to modify that lecture. See among others, the following works: that excellent one by Professor Ruffini who does not disagree with my conclusions, if these are read carefully. I, too, consider Themistius as a theist philosopher, not uncommon among the greater minds of that time (*La Libertà religiosa,* pp. 30ff). See also Louis Meridier, *Le Philosophe Themistius devant l'opinion des contemporains*, Paris, Hachette, 1906. I dedicated my study on Themistius at the time to my venerated teacher, Giorgio Politeo (of whom I speak in the first volume of my collected works) with these words: "To my venerated teacher G. P., who pointed out to me those profound and shining truths, hidden in the heart, which reason must recognize and cannot explain."

Religious freedom has many grades of promoters and defenders, from the believers and the indifferent to rationalistic philosophers.

Some pious souls, filled with an overwhelming faith, inflamed by love for their own religion, derive the idea of liberty from the purity of an ineffable enthusiasm. They would gladly face any kind of martyrdom; they would endure any pain fearlessly, if they could thereby succeed in persuading their erring brothers, and spread abroad worship of their God; but this sublime intention would be desecrated in their eyes if they attained it by concealment or violence. Profoundly sincere and devout, religion is for them an ardent and spontaneous sentiment and not in any way an effort; faith is freedom. In the religious mysteries, which are the bottomless abyss of the mind, man must abandon himself, moved only by a secret divine inspiration, immune to imperiousness and fraud.

Some philosophers constitute another type of champions of religious freedom. They do not shut themselves up in a particular creed; they experience the luminous intuition of divinity, but do not give it form in vivid images. From the topmost summit of speculative thought they try to embrace all creeds with a single glance, harmonizing in a single hymn the variety of heavenly notes, and transfusing the changeable spirit of different creeds into the immutable idea of immortal religion.

After these come the indifferent, the skeptics, the positivists of all kinds, who defend liberty because they fight belief; so that some of them would grant liberty to all sorts of philosophical systems—even to blasphemy—rather than to religion.

Of these various partisans of religious freedom the first—that is, the believers—appear the most generous and effective in the eyes of those who consider them from an historical and human standpoint.[2] But, if the truth be told, they exist in smaller numbers, and it happens not infrequently that sparks of intolerance and persecution burst forth from contact with a faith that is ardent or blind.

The story of the indifferent and of the skeptical is better known. They frequently offend the pious and modest conscience, which is led to suspect that liberty defended with the irony of Voltaire can be an incentive to agnosticism.

The happiest defenders of freedom of conscience are the deist philosophers. They form a glorious and uninterrupted dynasty, which historically begins with the first revolts of thought against the gods of the nation, and scientifically with the Greek philosophers,[3] among whom shine and excel Pythagoras and Anaxagoras, and it comes down in the course of time to Montaigne, Spinoza, Locke and John Stuart Mill. The virile progeny of these austere thinkers is not extinguished, for they shall continue to appear—to the honor and consolation of mankind—until religious intolerance is completely driven out of laws, institutions and customs.

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[2] We recall here the timorous and candid souls of Channing and Vinet.

[3] See Lange's *History of Materialism* and especially the scholarly note in which he summarizes the persecutions by the ancient Greeks of the free thinkers, Vol. I, p. 440 of the French translation.

The customary historical injustice has condemned a few names among these powerful philosophers almost to oblivion, especially those of the third and fourth centuries, keeping them from the place which they ought to occupy in the annals of freedom and constitutional law. The aim of the present study is simply that of rescuing from unjust oblivion the names of some of these precursors of modern ideas, and especially that of *Themistius.* For anyone who is eager not only for the spectacle of battle and the éclat of famous names, but who searches patiently in history for the idea of justice and the fortunes of freedom of conscience and of science, finds himself not infrequently led to invert causes for and proportions of blame and of praise, and grants to the solitary thinker the fame that he must deny to crowns, miters and victorious nations. In our studies we search for these liberators of souls, these silent workers of civilization!

Themistius is not a martyr to free thought, nor is he a victim of science. He did not suffer for the triumph of truth or virtue; and it is perhaps for this reason that his name was cloaked with oblivion. Men grant the palm of fame only to those who attempt and succeed in the demonstration of great moral and philosophical principles with sacrifice and blood. They admire the philosopher, but they love the martyr. Themistius lacked the sacred halo of misfortune.

He was born in Paphlagonia about 325 A.D.[4] and was educated by his father, the philosopher Eugene. We still have the oration that the grateful and reverent son composed for his father's funeral. Themistius taught philosophy in Nicomedia, Constantinople, Rome and Antioch. This won him the honor of many embassies, and he was admitted to the Senate from Constantinople in 357 A.D. That appointment, usually not granted to professors of philosophy, was explained by the emperor in a letter which, luckily, has not been lost. It is said that Julian and Valentinian offered him the prefectship of Constantinople; it is certain that he was appointed to this high office by Theodosius in 384. Themistius occupied this position for a few years, and died in 390. In one of his speeches he declares that he had devoted forty years to public affairs, and in another he glories in having spent twenty years in philosophical speculations, using the pompous eloquence of his day, in which the native simplicity of the ancient Greeks had been lost in action as well as in speech.

His writings, however, possess a certain moral beauty, serene and calm. To him, who suffered little, virtue appears as a natural and amiable practice. In the furious struggle then going on between paganism and

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[4] The dates are not certain. See, among other learned works, that of Baret, *De Themistio Sophista*, Paris, Didot, 1853. See also *Specimen literarium inaugurale exhibens observationes criticas in Themistii orationes*, Lovanii, typis Francisci Michel, and F. K. Hertlein, *Zur Kritik der Reden des Themistius*, Wertheim M., 1872.

Christianity, he stands aside and shows no passion; his philosophy is as lofty and infallible as his public and private life is gentle and tranquil. An eminent writer, alluding to him and praising him, observes that a kind of evangelic spirit hovers over his moral doctrine. The result of his friendship with St. Gregory of Nazianzus diffuses itself in his speeches. It is a source of wonder to hear a pagan sing with ardent and inspired words of human brotherhood; and in the funeral oration for his father he extols him as a Christian orator would in describing the entrance of a saint among the chosen ones of God.[5]

We cannot entirely agree with this opinion. Themistius' morality issues from historical studies, which rise and develop naturally, outside of Christianity, as is demonstrated in Denis' classical work and in Professor Drill's writings, without conforming to all their opinions, to which can be addressed a reproach for a certain *spirit of inclination*, as the Germans would call it. We find in these works the aim of belittling the mission of Christianity, extolling the moral and civil character of antiquity, which, according to them, would have found in itself the virtue of regeneration.[6]

Julian, the restorer of paganism, honors Themistius with his friendship; St. Gregory, a master of the new faith, holds him dear. The repugnance of the two great adversaries vanishes in that philosophy which is not darkened by foul passions, but which is just and fair in its indifference to theology, so that it can sincerely respond to the affection of both without lies and without treachery. For one who looks into his innermost nature, below the veneer of official forms, Themistius is not a Christian, nor is he a pagan, although, for one full of memories of ancient greatness, he may be associated with paganism. He is a philosopher who understands everything, respects and forgives everything, and who tries to dominate both the old and the new creed from the Olympus of an ideal height, where divinity flashes across his mind. So it happens sometimes to certain philosophical systems which, through an excessive attitude of impartiality and because they appear closed to every human passion, lose their effectiveness, and resemble those stars which, being too distant, do not shed their light upon the earth.

In this friendship of Themistius with the great thinkers of paganism and Christianity no hypocrisy can be noticed. He is frank and open; he does not pity the believers, but he respects them. He believes in a vague ideal, in an etherized religion, which is so much ennobled and purified when it is despoiled of every symbol. He is an Epicurean of virtue and of divinity; he does not feel the formidable controversy which marks the end of the ancient world and the dawn of the new. He does not feel it, and does not care about it. For this reason, when appointed to high offices by Julian he always preserved intact, with Christian, Aryan and pagan emperors, the reputation which he deserved for the temperance and the noble simplicity of his life.[7]

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[5] *Dictionnaire des sciences philosophiques*, Paris, 1852.

[6] Denis, *Histoire des théories et des idées morales dans l'antiquité*; *ouvrage couronné par l'Institut*, 1856. A new edition of this notable work has been issued.

Themistius had sent a letter, now unfortunately lost, to the emperor, and Julian answered with dignified kindness. What grandeur in this correspondence between the bold and bellicose prince who wanted to restore to life the dying paganism, and the wise and gentle philosopher who viewed with the same indifference the dawn of one creed and the waning of another! Themistius hopes for great things from Julian, to whom he points out the great examples of Marcus Aurelius, of Alexander and of all the princes celebrated for their valor and virtue; but Julian, who would like to realize the philosopher's friendly hopes, is frightened by the greatness of those examples and prefers the tranquil joys of contemplation to the excitement of an inevitable and difficult struggle.[8]

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[7] See *Œuvres complètes de l'Empereur Julien*, traduction d'Eugène Talbot, Paris, E. Plon, 1868, p. 218. See also Abel Desjardins, *L'Empereur Julien*, Paris, Didot, 1845; and Dr. G. B. Sievers, *Das Leben des Libanius*, Berlin, 1868. The last is a remarkable work, containing an account of Themistius' relations with Julian and Libanius. On p. 241 there is a scholarly discussion of the proconsuls of Constantinople in which is examined the question whether Themistius became *prefectus urbis* for the first time under Theodosius or even before that, in 357.

[8] Themistius tells him that "God had put him in the place of Hercules and Bacchus who, philosophers and rulers at the same time, purged the earth and the sea of the scourge that afflicted them," and, not in order to flatter him, but in a spirit of sincere admiration, he urges the emperor to imitate Solon, Pittacus and Lycurgus. Wherefore Julian, who does not feel himself capable of so much and fears the weight and trouble of empire, and is in love only with philosophy, is astonished because he knows that Themistius "is incapable of flattery and lying." His reasoning, which space prevents us from reproducing in its entirety, recalls that of Marcus Aurelius. He does not fear adverse fortune, but he fears a happy lot, because "it is not to be wondered at that one resists the former when it has declared war, but it is more admirable to show one's self worthy of the latter." Invoking Plato's testimony, in the "admirable book of the Laws," he has formed such a high and pure conception of what a monarch should be that he is dismayed. "It exceeds the strength of man. . . . Thou believest that a prince, who is a man by his nature, needs to become, through his feelings, a divine being, despoiling his spirit entirely of all that is animal and bestial, except what is necessary for the preservation of the body. When I think of such perfection, I am dismayed. Thou believest that I rejoice at Epicurus' idle life, the gardens of Athens, the alleys of myrtle and Socrates' little house. Oh, no! it will never be said that I have set this sweetness above work." But the doubt of not knowing how to govern assails him continually, and he is greatly troubled by these sentences in Aristotle's *Politics* (Book III, chaps. X and XI) where the Greek philosopher offers these eternally true objections to absolute monarchy: "If we claim that monarchy is the best possible form of government, what will happen to the children of the sovereign? Will his race be fit to reign? We shall have to accept it, whatever it may be. This is a dangerous thing. But, it will be said: the king, master of his inheritance, will not transmit it to his unworthy sons. That is difficult to believe; it is an effort too great for human nature." Further on, after speaking of a king dependent on the law, who cannot be placed among the kings but in another class (would this be the constitutional king of our representative monarchies?) he adds: "As for what is called absolute monarchy, which is the rule of a king who has the power to do what he wants, it seems to some contrary to nature that one man be the arbiter of all citizens, for equality is a law which is natural, just and necessary." And, a little later: "To wish that reason reign is to wish the reign of divinity and of laws; to wish that a man reign means to wish for the reign of a ferocious animal, for passion and anger deprave the best, while the law is reason without passion. Thou seest; our philosopher seems to mistrust me, accusing human nature." He says, "this (human nature) is never fit to stand such a height of fortune, considering that it is not easy in his opinion for a man to sacrifice the interests of his sons to those of the state.

And after an affectionate conversation, all full of high thoughts, Julian tells Themistius:

> Meanwhile, O dear one, worthy of all my esteem, I wish to submit to thee some doubts which arise from thy epistle. Thou placest a life of action above one of philosophy, and invokest the testimony of the wise Aristotle, who identifies happiness with doing good. But Aristotle perhaps does not mean the verb *to do* in an absolute sense, and he can refer to it not only the thinking of legislators and statesmen but also of those who labor with mind and speech. What man was more practical than Socrates? Still he did not have authority over anyone, not even over his wife and son. In my opinion Socrates did more than Alexander. We owe to him the wisdom of Plato, the strategy of Xenophon, the Cretian and Megaric philosophy, one Cebes, one Fedon, one Lymmias, and a thousand others, not to mention all the affiliations of the same school, the Lyceum, the Porticus, the Academies! But is there anyone who now owes his welfare to Alexander's conquests?[9] What city is better governed? What man was made better? Thou wilt find that many grew richer but none became wiser and more temperate, not even Alexander himself, whose arrogance and pride were doubled by his victories. On the other hand, all those cured and saved by philosophy owe their salvation to Socrates.

Thus did those two lofty spirits converse, and as we listen to them we become filled with admiration. But we are overcome also by a secret sadness on thinking how the emperor, who despised the vanity of human things, trampled upon the triumphs of the great captains and the glory of the most famous legislators, and raised to heaven only the ideal power of philosophy, embodied in Socrates, redeemer and martyr of human thought—while mocking the Christian doctrine so near to him and corroding it with the biting salt of irony.[10] The emperor resigned himself to ruling, though he sighed for the philosophical peace of Athens and, in his melancholy reflections communicated to Themistius he was sincere, like all those who are strong. And this man, who conversed so confidentially with the last hero of paganism, maintained a cordial friendship

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Besides, he thinks that it is not right to reign over equals," and finally, to give the last touch to the picture, he defines the law as "reason immune from passion," asserting that the government must always be entrusted to it and never to a man. In fact—added the austere prince, unjust to himself and just to his friend—"reason is mixed with anger, and man, even if good, is an animal of extreme ferocity."

[9] Julian and Themistius understood each other. In the VI and XIII orations, Themistius diminishes the greatness of Alexander, first among warriors, but not first among kings.

[10] Truly he came very near the Christian doctrine when he said: "To conquer we need courage and fortune, and, we may add, prudence and ability. But to think justly of divinity belongs to perfect virtue, and we may wonder whether a man who possesses it be a man or a god. For if it is true that we can know only the things which we experience, he who knows the divine essence may pass for pure intelligence."

with the new heroes of Christianity. Gregory of Nazianzus in two letters (the one hundred and thirty-ninth and the one hundred and fortieth) calls him great and king of eloquence, and trusts him fully. "Thou confirmest thy Plato's opinions that the evils of the cities will never end until philosophy be added to power, and thou art great in the one and the other. Thou canst better philosophize than undertake the defense of justice." We know that by justice St. Gregory meant tolerance toward the new religion, during the short period when it was persecuted in the fourth century. Philosophy and justice, and the agreement of both: that is what the saint-philosopher preaches and recommends!

In this frame of mind, of one who dominates from a serene and sublime height the valleys below, darkened with the mist of so much prejudice, Themistius hoped to bring peace and quiet amidst the anger and savage cries of pagans, Aryans, and Catholics, who battled in the name of heaven for the possession of the earth and for their lives. His philosophical righteousness lifted his pure mind to a clear vision of those political truths which are to-day called constitutional, in which our public law bears a fertile patrimony of glory and prosperity.

The example which he gave of freedom of conscience and of creeds seems to us admirable and perfect, and, if we are not mistaken, is superior for its beauty and precision to the most famous modern cases, like those of Montaigne, Spinoza, Locke, Voltaire, Vinet and John Stuart Mill.

Before examining briefly the value of his doctrine and exploring its historical and psychological aspects as well as its various connections, let us listen to him and appeal to his vigorous thought, his eloquent speech, for help in our investigation.

The extract which follows is taken from Themistius' consular oration to Emperor Jovian, prepared for the occasion when he went with other senators to meet Julian's successor at Dodestana. This was in 364 A.D. First he congratulates the emperor upon his accession to the throne; then he praises him for his tolerance of religious creeds, and reasons thus: [11]

> Thou hast placed at the head of thy cares and thy love toward men the arrangement of religious matters. And here my thought returns to that exordium that I was turning over in my mind. Because clearly thou knowest that a prince cannot compel his subjects to do all things, but there are some which are above every force and every necessity, and resist threats and commands. These are the several virtues; and first among them piety toward God and religion. And surely if such blessings are not fallacious the free inclination of the mind must have primacy, voluntarily and of its full right. . . . If with thy edict, O Emperor, thou canst not cause those who dislike it to love thee, how much less wilt thou be able to render pious and religious those who fear human decrees, brief and fleeting as they

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[11] This is taken from Dionysius Petavius' Latin translation in the Paris edition of 1618.

are, the terror of which is changeable because at times the vicissitudes of time bring it near and at other times remove it? Wherefore it follows that we are foolishly brought to revere, not divinity, but the royal purple, and we are more unstable than the sea in changing religion. Once Theramene[12] was unique; but to-day all have their feet in two shoes. Yesterday we avoided being one of a group of ten, to-day we join a band of fifty, and all of them act alike in respect to altars, images, victims and rites. But thou hast not willed that, O divine Emperor, and while in all things thou art, and shalt be, a perpetual lord, in matters of religion and divine practice thou hast granted freedom to everyone, following in this procedure God himself, who made all men bow to religion, but permitted each one to exercise his free will in the manner and reason of his cult of divinity. Now whoever uses force and violence, suppresses the faculty granted by God. Wherefore the laws of Cheops and Cambyses[13] lasted hardly as long as the brief life of their authors; but the sanction of God is immovable and eternal, as is thine, in allowing everyone to follow freely the religion that he thinks best. Such a law can never be broken by torments or deprival of riches. Surely, if it pleases thee, thou wilt force the body and extinguish mortal life; but the soul, carrying with it its free thought, will fly free, even if some word may be torn from the tongue. And I, O Emperor, I trust that thou wilt penetrate into the reason of that divine law—with such a thought thou followest it—that is, that man is so made that he attends zealously to those things which he accomplishes with some effort or desire of emulation, and is negligent and weak toward those that require no labor. Thus the lack of admirers and opponents makes us indifferent and inert; inasmuch as our soul is easily moved to act by the stimulus of emulation. For this reason thou dost not prevent the beautiful rivalry of piety, and dost not try to stop the mutual zeal which incites ardor in cultivating the divine and in religion. In the same way, under one supervisor at the races, all runners start in the contest, and not all from the same point, but one this way and another that way; thus thou judgest that there is One, and One alone, true judge of our race, and that we can reach him not by a single road, but by many. Some of these roads may be difficult, others straight but rough, others easy, but we all strive for the same goal, and the combat arises only because different roads are chosen. If thou hadst left only one road and closed the others, thou wouldst have barred the field for rivalry and competition. This is the old nature of man, and the saying, "Some this God and some that other worship," is older than Homer. And I cannot say whether

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[12] Theramene, one of Athens' thirty tyrants, famous for his political duplicity; *cothurno versatilior*, is said of one who keeps his foot in two shoes.

[13] Cheops was considered impious toward divinity. Cambyses conquered Egypt, violated the Egyptian gods, desecrated the temples, etc.

> God would be pleased by unanimous consent. Nature, says Heraclitus, likes to hide itself, but even more than nature, God, its author and creator, loves to hide Himself. We revere and admire Him with holy wonder, just because knowledge of Him is not obvious, is not written on the face of things, is not under our eyes; nor can we affirm this knowledge.
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> I consider this law of thine not less important than the treaty signed with the Persians. By the latter we obtain the benefit of peace with the barbarians, but by the former we are permitted to live without internal discord and without tumult. In the past we have shown greater enmity to ourselves than to the Persians, whose raids were much less dangerous than the accusations made by one sect against another in the same town. To thee, O Emperor, beloved of God, the past offers clear examples. Let the balance be fairly adjusted, do not wish it lowered on one side more than another. Let the prayers and vows to heaven for the greatness of thy rule rise with equal fervor everywhere. No army of thine is formed of a single type of soldiers. Some have heavy armor, some have light armor, some are horsemen, others are slingers. Still, they all obey thy will, as do not only the soldiers, but all men, the unarmed subjects, the peasants, the orators, the listeners, the philosophers. Be certain, O Emperor, that the author and ruler of the universe is pleased with such variety: he loves to have the Syrians use certain rites and the Egyptians others. And the Syrians [14] themselves are not bound by the same laws, and the form of their institutions is divided into two types. And since no one feels in his heart precisely what his neighbor feels, and this one approves one thing, and that one another, why do we wish to attempt with violence that which can in no way be achieved? . . .

What brilliance of imagery, what clarity of reasoning, what greatness of thought! This discourse, which would perhaps not be understood in Russia, could be effectively read and admired even in some parliaments of nations that have a claim to wisdom. For science and power cannot be confused with the truth and justice of tolerance.

But now we must determine briefly the value of Themistius' ideas and discourses in the history of political science, consider their source and development, and seek out their precursors and followers.[15]

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[14] By Syrians Themistius here means the Jews and the Christians.

[15] Besides that to Jovian, there is another oration of Themistius to Valentinian (No. XII in Hardouin's edition) entitled *De religione.* But we do not possess the Greek text and we are not even sure that he really composed it. A Latin oration to Valentinian with the heading *XVII Oration of Themistius* has been published by Andrea Dudistius. This is nothing but the repetition of the ideas, and in great part also of the words, of the oration to Jovian; and, reproducing the part which treats of the freedom of worship, was entitled *Oratio de religione.*

Petavius, who translated Themistius' orations from Greek into Latin, here did the opposite thing, and, taking Dudistius' Latin oration, succeeded in giving a Greek translation which faithfully reproduces Themistius' style.

The question is, first of all: Did that liberal doctrine of freedom of worship, so just, profound and beautiful, emerge from Themistius' own mind, or was it the completion and summary of principles and ideas already in existence? Freedom of conscience is not kept alive in popular traditions. Its cult is transmitted from thinker to thinker, from martyr to martyr, as a sacred inheritance to be jealously kept. A sovereign populace, intoxicated with blood, greedy for persecution, turning with every wind, cruel through ignorance or past suffering, who commit in the name of God the most horrible crimes; or superstitious and bloodthirsty monarchs who savagely endeavor to suppress their adversaries, found in every time before them—as a proof that human nature is never completely wicked—the heroic holocaust of martyrs, the infallible protests of reason. The Christian virgin torn to pieces in the circus, who, ineffably serene, proves to the emperor that the immortal spirit *is* immortal and stronger than all his legions; or the pagan sentenced to death because he was faithful to his ancient gods; or the Jew who dies on the stake on which he is bound, to be burned alive and who, thinking of the Promised Land, is silently disdainful as one who considers himself of a nobler race; or Themistius who recommends freedom of worship to Jovian in behalf of the pagans, or to Valentinian in behalf of the Christians; or John Stuart Mill, who defends this same worship from modern philistines—all these seem to be animated and sustained by the same thought of the sacredness of the human conscience, the profound respect due to the souls of men.

The martyrs who seal their faith with death, the philosophers who attest to their principles from the burning stake, are less celebrated than the heroes who die for their country. But truly they seem to us greater. To die for one's country! What joy, what secure prize of glory! But to die for a despised and mocked creed, for a scorned idea, what obscure desolation without prize and without terrestrial joys!

The political redeemers of nations know that they can hasten with their blood the victory of their belief, but the obscure pagan or the Jew who chose to die rather than recant, had not even the consolation of an apostolate and of future triumphs. They died in somber loneliness; no tragedy is as gloomy as theirs!

The first four centuries of the Christian era, with the relentless struggles of the creeds, when the new religion was first persecuted, and then

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Scholl denies the authenticity of the latter, partly because our historical information about Valentinian's behavior in the matter of religious questions, does not show great inclination to tolerance in this emperor. See also the notable work on Valentinian by Albert de Broglie, *L'Eglise et l'Empire Romain au quatrième partie, Valentinian et Théodose.*

However, because of the beauty and novelty of some passages and the poetic amplification of others, it will be well to consult also the translation of the oration to Valentinian. Dudistius must have felt his theme. With patient work of reconstruction, using some extracts from an oration by Themistius on tolerance, I trust that I succeeded in finding other thoughts expressed by him on our theme, which are not found in the oration to Jovian, to which we allude above, and which very probably the Greek philosopher expressed to Valentinian.

conquered and oppressed the followers of the old cult, present a spectacle which deeply embitters the minds of those who cherish liberty, and strengthens the sad doubt whether any religion won through its own virtue and without the help of force.

The Christian emperors sometimes emulated the cruelty of the pagan rulers, if indeed they did not in some cases prove themselves more ruthless, as some one has affirmed (though wrongly, in our opinion). The Theodosian code is the law of the proscription of paganism. *Cesset superstitio, sacrificiorum aboleatur insania. Nam quicunque contra legem Divi Principis parentis nostri et hanc nostræ mansuetudinis jussionem ausus fuerit sacrificia celebrare, competens in eum vindicta et præsens sententia exeratur.* Constantius, Jovian's predecessor, a cruel and wicked prince, like Constantine the exterminator of his own family, thus continued in the indictment of paganism: *Placuit omnibus locis et urbibus universis claudi protinus templa et accessu vetitis omnibus, licentiam delinquendi perditis abnegari. Volumus etiam cunctos sacrificiis abstinere. Quod si quis aliquid forte hujusmodi perpetraverit, gladio ultore sternatur.* And in this way the code of death continues, as we can see from the decrees cited and quoted: believers, priests, temples, rites, property of the pagans—everything was exterminated, and the councils, inflamed with religious wrath, instigated pronouncement of sentences of death and applauded at the executions.

Sometimes necessity, cunning, or kindness afforded a brief interlude of toleration; but no one doubts that oppression and persecution can be practiced in the name of God. Since we are in a period of violent change, yesterday's persecuted become to-day's persecutors.[16] Julian himself, who was so well balanced, finds it difficult to refrain from shedding blood, and, as he would not or could not persecute with the sword, pursues the Christians with his cruel mockery, even more cutting than the sword when it comes from the mouth of an emperor so powerful and so wise.

Surrounded by so much terror of heaven and earth, the personality of Themistius appears more beautiful and serene. Around him, as we shall see, a small legion of tolerant minds was being formed and was taught by him. With them he developed the liberal ideas of his predecessors and contemporaries, from Maximus of Tyrus to Libanius, St. Anastasius and St. Gregory of Nazianzus.

The example of the freedom of worship taught by Themistius is admirable for his times, and it is perhaps the most complete of any, even of our day, because in no one else are found so many arguments which reveal the robustness of profound thought, the Socratic clarity of common sense, and which are also so well coördinated in close and irrefutable logic.

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[16] In the great controversy of the Empire of the West between Christianity and paganism, summarized in St. Ambrose and Symmachus at the end of the fourth century, and which has not yet been examined from a point of view that we may call constitutional, we found the arguments of reprisal in the very first answer of St. Ambrose to Symmachus:

"Do those who never forgave our blood complain of beheading? Those who destroyed our churches from the foundations? Do they still ask thee to grant them special privileges, they, the very ones who denied us the common right to teach liberal arts, referring to Julian's last law?"

In that controversy the Catholics were fully in the right when they refused to take an oath on the altar of victory, and they were the true defenders of religious freedom, asking for its removal from the jurisdiction of the senate.

These arguments, which we shall summarize here, are ten in number:

Argument I. Souls cannot be constrained by any rule of princes, and no fear can subvert the principles of goodness and truth. The body can be forced, and with torture false or involuntary words can be torn from the mouth, but the spirit is inviolable and free. No benevolence and persuasion can be commanded with a decree, and no respect for religious feeling.

This first argument penetrates to the very depths of the soul, to the heart, hidden and wonderful pool whence freedom gushes forth! A pious and gentle soul, Vinet, using this argument, will draw forth from it expressions of immortal eloquence!

Argument II. Violence and constraint produce hypocrisy. Themistius explains to perfection how the worship of those who are forced to follow a religion is not directed toward God, but toward the imperial purple. Fear begets sham; and until the former dies, there exist concealed hatreds which burst forth all the more terribly when they have for a time been suppressed. All that is founded on fear is of short duration. Only that which comes from mutual consent without violence and machination can last.

Here Themistius adds that, besides all this, concealment is the principal and unfailing reason for the deprivation of mind and decay of temper.

Argument III. Toleration does not offend the authority of the sovereign, because religion belongs to every one's will, and the sovereign, granting freedom of worship, does not minimize his authority in all things. This authority, on the contrary, is strengthened because the love of his subjects for him increases.

Argument IV. Toleration removes dissension and terminates civil discord, which otherwise would flare up, furious and atrocious.

Argument V. Civil law governs both orthodox and heterodox, making the tranquillity of the social life and the unity of the country possible in the fervor of faith and the variety of beliefs.

These are the arguments used later by Spinoza with sublime mastery, and repeated in the title of his famous book: *Tractatus theologico-politicus continens dissertationes aliquot, quibus ostenditur libertatem philosophandi non tantum salva pietate et reipublicæ pace posse concedi sed eandem nisi cum pace reipublicæ ipsaque pietate tolli non posse.*

Argument VI. Toleration is demanded and sanctioned by an eternal law; for neither torture nor steel nor time itself can abolish the thought of one's own God.

Argument VII. Toleration is preached by the very example of God, who speaks to all minds, and has projected His own image in all, but has not prescribed the manner in which He is to be worshiped. Those who compel observance of a particular creed with force oppose the Divine Will.[17]

Here Themistius wishes to pull out the root of intolerance, which comes from the belief or doctrine that God has prescribed the manner in which He is to be worshiped. This argument, altogether secular and liberal, cannot be accepted by all those good and broad-minded believers who preach freedom of conscience. But fortunately this argument is not essential to the triumph of tolerance.[18]

Argument VIII. If only one road to religion and the worship of God were left open, the ardor that arises from competition and is obtained by comparison would be lessened. Diversity of creeds stimulates an effort to show the excellence and the supremacy of one's own creed, not only by reasoning but also by good habits and saintly deeds.

This ancient argument has quite a modern tone and finds its application in the many sects in England, the United States, and other countries, which are to-day contending for heaven, improving themselves, and doubling their zeal in keen rivalry.

Argument IX. God Himself does not want everybody to consent to the same religion. Nature prefers to hide itself, and so does its Author.

Argument X. God Himself delights in a variety of creeds.

These last two arguments signify that uniformity of ideas on matters so mysterious and sublime would mean lack of deep and meditated thought; and thus uniformity of will concerning mystical and spiritual matters would mean lack of spontaneous and sincere emotions. This thesis underlies John Stuart Mill's second chapter on freedom.

It would indeed be impossible to have a more lucid and complete idea on freedom of worship, from the moral as well as the philosophical and political aspect, than Themistius possessed. And he was not satisfied with the idea, but neglected nothing that might make others embrace it, and acted upon it on every occasion. He defended the pagans from the Christians, the Catholics from the Arians, when rulers persecuted now the one, now the other. And in a brutal century, full of ignorance and cruelty, when oppression and persecution raged, he burned with love for his fellow creatures, sounded the eternal clarion of eternal justice, and preached everywhere freedom of faith without fear and without violence.

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[17] St. Athanasius, for whom God prescribed the manner of His worship, does not want force to be used against dissenters, but he wants them to be attracted by gentleness and persuasion.

[18] This argument has always been used, from Maximus of Tyrus to Symmachus, but Themistius develops it masterfully. It is the pagan argument of that time and the philosophical argument of our time. Symmachus has said: "This great mystery cannot be reached by a single road," that is to say, the knowledge of the Deity. St. Ambrose, in his second discourse against Symmachus, answers him: "What you do not know we have known by the voice of God. And what you have been searching for by the road of false surmise we have clear and manifest by the wisdom and truth of God Himself."

And in the second discourse against Symmachus: "Now then, are there petitions presented underhandedly for justice? Where was then this pious sentiment when the properties of all Christians were ravished, they were not even allowed to breathe the vital air, and the consolation of decent burial was denied to the dead? . . ." Thinking of the bloody persecutions of the pagans and the sublime heroism of the Christian martyrs, one can understand and justify these expressions of anger on the day of victory, which is often also the day of revenge. But all this is human, it is not divine!

Dissensions were raging at that time among the various sects of the Christian religion, with the Arian predominating over the orthodox. Emperor Valentinian,[19] after killing not a few Gentile philosophers with the habitual pretext of *lèse-majesté*, was ill in Syria, as Sozomen says: "*adversus eos qui aliter quam ipse de Deo sentiebant majore in dies odio æstuabat, eosque acerbissime vexare ac persequi non cessabat.*" It was then that Themistius set himself to plead before Valentinian for the freedom and safety of the Christian sects, just as he had defended the Gentiles against the Christians from Jovian's anger. This oration, which must have been an admirable one, can be summarized as follows: He exhorted the emperor not to wonder at the dissensions between ecclesiastical dogmas, much less important than those which were to be found between the dogmas of the gentiles, among whom there was also a great variety of opinion, this variety naturally creating a great number of sects. Perhaps this fact, added the philosopher—repeating an idea which he had splendidly developed in the oration to Jovian—pleased God who, by keeping secret the manner in which He wishes to be worshiped, rouses so much rivalry in ardor and faith, so much zeal in pious souls, with everyone bent on beseeching the Deity and rendering him propitious according to his own particular belief.

The more human speech is adorned and beautified by art, the more it savors of meretriciousness, if it does not strive for a lofty goal, and does not produce salutary effects. But Themistius' rhetoric on tolerance created tolerance, and Sozomen notes that the oration to Valentinian moved the emperor, led him to benignity and rendered him less harsh in the persecutions: "*Hac Themistii oratione permotus Imperator, et ad humanitatem perductus, minus deinceps in exigendis suppliciis crudelem se præbuit.*"

Themistius' words saved some human blood and fostered a school which sent forth to future generations through the darkness of those blind persecutions the torch of freedom of conscience, which now no ephemeral intolerance can extinguish or subdue.

Emperors, rare in truth, who promulgated and caused to be loyally executed edicts which we may call edicts of tolerance, followed him.[20] Ammianus Marcellinus, although he does not admire Valentinian, and denounces his cruelty, praises him because he illumined his reign by keeping an impartial attitude in the midst of a diversity of creeds. He would not harass anyone, he did not order his subjects to worship at this altar rather than at that, nor did he bend their heads to the things that he worshiped.[21] Who does not feel the spirit of Themistius in this edict of tolerance? On the other hand, the same Ammianus Marcellinus, a great admirer of Julian, whose deeds he narrated with an eloquence worthy of Livy, cannot resist administering a harsh and just reproach to his beloved hero, and considers the decree an indelible blemish on his reign, by which Christian teachers were forbidden to deliver public lectures on Greek and Latin classic writers.

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[19] He was a partisan of the Arians.

[20] A real edict of toleration is that of Constantine, issued in 313 A.D. in favor of Christianity.

Julian represents Hellenism; he wants the Greek philosophy to be seated on the imperial throne. He greatly admired Marcus Aurelius, and both despised Christianity, which they considered hostile to the greatness of the empire. Julian opposed to Christianity the doctrine of the national gods; and he felt repugnance toward ranking the Capernaum fishermen above the philosophers of Athens. At that time nobody could understand what is so easily demonstrated to-day: that is, that modern civilization is the logical product of both Christianity and Hellenism, reconciled and in accord with each other. The centuries have grafted the roses of Hellas upon the thorns of Galilee.

Two fundamental principles emerge clearly in all the philosophical expressions which have developed in the course of the ages, from the first cosmogonic systems to the latest audacity of positivism and of other schools which send the Deity farther off, in all the modern forms of religion. These two principles are, that the perception of divinity is natural to the human mind, and that the human mind needs to express itself in full freedom and variety, both elements of divinity itself.

To seek in history the evolution and the vicissitudes of these principles is to serve the cause of pure and sincere religion, which finds its most splendid glory and victory in a frank and spontaneous faith. But it lost all splendor in brutal and ferocious persecutions, in cloaked hypocrisy, when it declined, debased itself, and was on the point of losing all dominion on earth, over which peace and love no longer reigned, and the vault of heaven seemed to be dripping tears and blood.

Freedom of conscience embraces also freedom of science, which detaches itself like a son from the maternal womb. Without freedom of conscience we would miss the ineffable consolations of heaven, and without freedom of science the dominion of man over nature would be lost. What would life mean, if heaven were mute, and the earth could no longer be freely explored? Life without free faith and free science would resemble an extinguished planet, destitute of light and heat!

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[21] Valentinian succeeded Jovian. Ammianus Marcellinus says of him (Chap. XXX, c. 9): "*Postremo hoc moderamine principatus inclaruit, quod inter religionum diversitates medius stetit, nec quemquam inquietavit, neque, ut hoc coleretur, imperavit aut illus, nec interdictis minacibus subjectorum cervicem ad id, quod ipse coluit inclinabat, sed intemeratas reliquit has partes, ut reperit.*"

A Saintly Precursor of Religious Freedom

(Theodorus Studita)

We are not engaging in research in these studies into the glorious and striking events of history. We are exploring the inner state of a few chosen spirits who tried to solve the great riddle of life by faith and philosophy, and in spiritual freedom. The records into which we delve with most eagerness are those which relate to the woes of the apostles, the martyrs, the persecuted philosophers, testifying of their heroism for the sacred cause of human tolerance. Our greatest joy, our most signal proofs, are found in the defense of freedom of conscience flowing from the heart of the persecuted, especially of the persecuted who were finally victorious and became arbiters of their oppressor's fate. In the sublime life we find the highest glorification of human nature!

Such was the great destiny of our saint, the intimate story of Theodorus Studita. He lived in the beginning of the ninth century, and was a witness and martyr of the iconoclastic persecutions against the Catholics, which still raged in the first decades of the ninth century.[1] Just as St. Athanasius, pursued by the triumphant Arians, preached in favor of the safety of his persecutors, so did Theodorus protect the iconoclasts, thus following the thread of religious freedom which was never interrupted in history. Even when it is hidden this celestial flame of freedom of conscience lives on, nourished by pure and humble faith!

The emperors at Constantinople, always suspicious of the Apostolic Chair of Rome, upheld the iconoclasts, and proscribed those who fortified their spirit against the suffering of terrestrial life with the image of Christ, hoping for spiritual compensation in a future life.[2]

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[1] My study of St. Theodorus dates from 1893. Further studies did not induce me to modify it. See the Abbé Marin's work on St. Theodorus.

Theodorus, born in Constantinople in 759 A.D., took the name of Studita from the convent of which he was the head, and which numbered over a thousand monks under his administration. His letters, already published in Sirmond's *Opera Varia* and in Varonius' *Annals*, are found also in the *Patrologie Grecque* (Vol. XCIX), which was published in Paris and contains the writings of Greek fathers and ecclesiastics before Fozius, and Latin to Innocent III. See also the *Nova P. P. Bibliotheca*, Vol. VIII, 1871. Father Cozza's publication was made under the auspices of Pope Pius IX. Consult St. Theodorus' writings, among which those against the iconoclastic heresy are the most notable. See also *Antihæretici tres adversus Iconomachos. Refutatio carminum Joannis, Ignatii Sergi et Stephani, Iconomachorum. Quæstiones Iconomachis, propositæ. Adversus Iconomachos, capitula septem. Oratio pro sacris imaginibus. Epistola ad Theophilum imp. de sacris imaginibus. Epistola ad Platonem archimandritam de cultu sacrarum imaginum.*

[2] The great persecutions occurred between 813 and 820 A.D. under the Emperor Leo the Armenian. Michael the Stammerer, who succeeded Leo, tempered his predecessor's severity. Theodorus, in his defense of the use of images of Christ, while he argues strongly against the iconoclasts, does not indulge in the heresy of those who cause the image cult to degenerate into a kind of idolatry.

See *Patrologie*: "*Leo Armenus invadit imperium*," p. 170; "*Sacris imaginibus bellum indicit fidem. Silenthium indicit catholicis*," p. 183; "*Ejus impietas*," p. 1315; "*Comparatue cum Pharaone et rabuchodonosore*," p. 1170; "*Leo Isaurus: primus sacrarum imaginum hostis*," p. 119; "*Michael Balbus maj. hæreticus*," p. 206; "*Pro defensore imaginum pulsos revocat*," p. 1307.

Idolis et imaginis discrimen, S. Theodori vita. Aut quisnam est qui te docuit

Sacred images were removed from the churches; priests and monks were flogged. The same form of punishment was applied to the nuns, who faced these persecutions with ineffable patience, thereby arousing the anger of the executioners.[3] The same thing had happened in the persecutions of the first martyrs under the Roman Empire; the dominators of the world could not understand the sublime resistance of the women. But Studita, persecuted, three times exiled,[4] abused for so many years, writes to Theophilus, bishop of Ephesus, a memorable and almost unknown letter; one of the purest and loftiest documents in the history of religious freedom. When the moment of reprisals had come, when it was possible to taste the human delight of revenge, the saint answered with forgiveness.[5]

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imaginis atque idoli unam esse vocem? . . . cuius infinito spatio inter se dissideant, non nominis sol umappellatione, sed multo magis archetypi substantia. Idolum enim est et appelatur quod dæmonis aut alterius cujuspiam ex iis que gentiles turpiter pro Diis coluerunt. . . . Imaginis autem et honorandum est archetypum. . . . And it continues: *Qui crucem colat spernere non posse imagines.*

See *Patrologie*, Vol. XCIX, p. 590: *In sanctos XL Martyres, de Dominicis imitandis suppliciis.* "*. . . Enim vero felicem qui vel tantillum Christi suppliciis communicet, ad necem petatur, æque ac petitus ille est; comprehendatur ut ille, contumeliis laceretur ut ille, vapulet ut ille, in carcerem compingatur ut ille. . . .*" It is a glorification of martyrdom, aided by the example of Christ. It is a joy, a frenzy of suffering for the sake of God!

[3] In letter 165 *Præpositæ* (P. Cozza, Rome, 1871) St. Theodorus thus speaks with the intent of illustrating the heroic resistance of the women; and in order to give new fervor to their zeal he recalls the violence suffered in previous times by a saint (St. Matrona):

"*Nunciavit mihi frater vidisse reverentiam tuam, et quod spiritu valeas, spem in patientia retinens; et quidem bonum Deum nostrum laudavi, qui in infirma quoque natura potentiam suam ostendit. Vere enim beata tu es inter moniales, immo et inter feminas omnes; quoniam his diebus, quibus victæ sunt, non modo aliæ tui religiosi habitus feminæ et canonicæ, verum etiam cuncti propemodum Byzantii monachi et præpositi, tu cum aliis quatuor aut forte plus, maluisti pro Christi pati, quam hæreticam communionem, a Christo separantem participare. Nam qui hanc participat, excidit a sorte Christi tamquam Iudas, fitque soladis eorum qui Dominum ob crucifigendum comprehenderunt. Etenim Christi persecutores et crucifixores sunt, qui imaginem eius comminuunt et abiiciunt, sicut etiam ipsius Deiparæ et singulorum sanctorum. . . .*

"*Semem sanctum es. Mitto secundum carnem quoniam et hoc tale est, sed Theclæ aio proto-martyris, Phebroniæ, Eugeniæ, Matronæ, et similium. Matronam autem dixi, quia cum et ipsa hæreseos temporibus viveret, et nonnullæ moniales communione abstinerent, ut vos nunc detestandi hæretici iræ impatientes, vi illarum ora manibus aperientes, communionem suam infuderunt. . . .*"

[4] Theodorus' three periods of exile were in 807-11, 814-21 and 824-26 A.D.

[5] Studita's letters are the best sources for the history of the iconoclastic persecutions in the first decades of the ninth century. All that collection of epistles must be read, and it will be translated into the languages of the various civilized nations when the lives of the precursors of freedom of conscience will be studied and discussed, as are in our times the lives of the great destroyers of mankind; when the intimate history of the souls of nations will receive more attention than the story of their external vicissitudes.

Here and there Theodorus' works and correspondence shine through a certain artistic unstudiedness. He is most effective in describing the persecutions and their effect of concealment and simulation on weak souls. Of certain persons who publicly received the Holy Communion with the consecrated wafer of the iconoclasts and threw it away secretly, he says: "They loved the glory of men more than that of God." See Letter XII to Pope Paschal: *Audi, apostolicum caput, a Deo præposite pastor ovium Christi, ianitor regni cœlorum, petra fidei super quam ædificata est catholica Ecclesia. Petrus enim tu, Petri sedem exornans et gubernans. Lupi graves irruperunt in aulam Domini: portæ inferi, ut olim, ruptæ sunt in ipsum. . . .*" Those who were strong in their faith

It is not the forgiveness of a weak spirit, it is the indulgence of a sovereign intellect, which understands that "it is necessary to instruct the heretics and not to kill them." To have suffered imprisonment and starvation for one's own God; to have seen one's friends and relatives thrown into prison and sent to exile; to have known the extreme iniquity of which the human beast is capable, when a false religious emotion incites it . . . and then, by a change of capricious fate, to be able to place one's self in the position of the persecutors, to be able to avenge one's self; and to feel the angelic nature prevail in the very act in which human perfidy is to burst forth, to kiss the conquered persecutors, cover them with a love which comprises everybody in the great duty of justice and pity: this is a state of mind which lifts high our souls, consoles us for our origin, and gives us the strongest hopes for the ultimate goal of mankind.

Let us analyze this letter, which is worth more than a treatise on constitutional law. The limitations of the state, which has no power over the religious mystery of each soul, sovereign over its faith, were seldom expressed with more explicit clarity. Since the bishop of Ephesus made use of historical precedent, which is the great argument of persecutors, Theodorus becomes a subtle historian in order to refute his contentions effectively!

The bishop of Ephesus had written: "We did not advise that the Manicheans be killed, nor did we advise that they be spared. But if we had consented we would have done a beautiful thing." St. Theodorus rebels against this hard declaration. He is grieved that he is obliged to disagree with the opinion of the man honored by God; he begs the bishop's forgiveness, but speech is urged on by truth, and truth compels him to break his silence. The saints have never been silent,[6] Pascal, a secular saint in the Gospel, was to say later. The Lord has expressed a contrary judgment. He forbade persecution, saying: "Nay, lest while ye gather up the tares, ye root up also the wheat with them. Let both grow together until the harvest." [7] The tares are the heretics; the heretics of that time and those of the future. St. Chrysostom interprets in this way the divine words: "What does the Master forbid with these words? [8] He forbids war, the shedding of blood, slaughter. For the heretics must not be killed; otherwise an implacable war would rage in the world.[9] And further on St. Chrysostom says: "The Master says no other thing but this; if ye prepare to take arms and slaughter the heretics, many saints will be put to death through the necessity of reprisals."

St. Theodorus observes sadly that this happened in our times, and pays a tribute of admiration and pity to the strong men who gloriously

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were practicing martyrdom, which was a school of spiritual fearlessness. See Symeon Jacobitus' Sermon XXIX: *Adhortatio ad eos qui se paratos martyrio ajunt, et ne leve quidem verbum tolerant*, Vol. VIII pp. 144ff., ed. P. Cozza, Rome, 1871.

[6] *Les saints ne se sont jamais tus.* St. Theodorus refutes the saying that "the mouths of pious men are silent."

[7] Matt. 13:29f.

[8] The words are: "*Ne forte eradicetis simul cum eis triticum.*"

[9] Homily 47 on Matthew.

died for the sake of their faith. "For blood and slaughter," exclaims Studita with an eloquence worthy of St. Chrysostom, "have filled our country, and many saints were taken away from us, so that the word of the Lord has not been without effect, as many are persuaded now. But what course for us to pursue, that it must not be permitted to us to kill the heretics?"

The Master has not even granted us permission to curse them. Let us still listen to the Lord speaking to St. Carpius, as testified by St. Denis:

> Beat me [says the Savior]—because I am ready to suffer once more for the salvation of men; which is very agreeable to me, provided the other men sin no more. Now what good can be done by substituting the sojourn in Hell, with the company of the serpents, for the divine dwelling where are the good and the angels, friends of men,[10]
>
> You see, you who have the intelligence of divine things, the indignation of God, after Carpius cursed the heretics, wherefore they left this life; if Carpius persevered in such disposition he must be condemned. Therefore it is not permitted, as shown by truth, it is not allowed to curse them [the heretics] but we must pray for them; as the Lord Himself indicated at the time of His Passion, saying to His Father: Father, forgive them, for they know not what they do.[11]

In doctrine, in quotation, in learning, St. Theodorus outstrips the Bishop of Ephesus!

And at every point, with a glorious *crescendo*, he goes on to show that Jesus was not pleased with those disciples who did not share in the spirit of kindness and mildness. "The divine founder of our mysteries in meekness instructs those who were opposed to the doctrine of God. For those who have no science must be instructed and not punished. Thus thought St. Paul, the sun of the world." [12]

But the Bishop of Ephesus had invoked the authority of St. Simeon who lives on Mount Admirable, with the intent of fortifying the stronghold of persecution.

Now how could it be admitted that St. Simeon would ignore the word of Christ and of masters so much superior to him? And St. Theodorus explains the apparent contradiction with technical precision. A nation was ill-treating the Christians; St. Simeon exhorts the emperor of that day not to allow the oppression of the Christians by the Samaritans,[13]

[10] Epistola 7 *ad Demophilum Monacum*, number 6.

[11] Luke 23:34.

[12] *Doceri enim non puniri, oportet ignorantes. . . . Audivimus igitur, o beate, quæ dixit sacer Paulus. Sol orbis universi. . . .*

[13] St. Simeon Stylites the younger, who lived in the sixth century near Mount Admirable (Antioch). The Samaritans had committed horrible crimes: they had cut to pieces a bishop with his priests, and they had cooked their limbs. . . . St. Simeon asks for a just punishment of these savages, writing to the emperor about it. See how right was the distinction made by St. Theodorus: those were not spiritual errors but common crimes.

which is well. The Samaritans were murderers who had to be punished because they were murderers, *although* heretics.

"We give the same advice to emperors, asking them to fight the Scythians and the Arabs who massacre the people of God, and not to spare them. But they are two different things: there we have enemies, here heretic subjects of the empire." [14]

St. Theodorus does not believe that John the Faster, patriarch of Constantinople, had ordered some supposed magicians crucified. The patriarch had not ordered the deed, he had only allowed it.

And to explain more clearly this deviation from mercy, Studita notes that the magicians were "murderers, and we must not prevent the authorities from enforcing the Roman law, because it is not in vain that they wear a sword and punish the ill-doers. But it must not be permitted to harm those whom the Lord has forbidden to hurt."

And here, with the clearness of modern constitutional ideas, St. Theodorus proclaims the sovereignty of the soul, which must be independent of the rule of the state, and declares that "those who govern the bodies of men have power to punish the criminals who inflict bodily harm; but not those whose errors are spiritual. The latter concern the spiritual directors, and the only punishment which can be inflicted upon them is excommunication." Heretics must be excluded from the church, but not removed from the world; the penalties must in their case be spiritual, not bodily. Their guilt is an affliction of the soul, which does not concern the state. Our saint thinks that they must be excommunicated, not killed. Here is the real interpretation of the divine word; here, where it is asserted that the Church does not avenge offenses against it with the sword, that it is not permitted to crucify in the name of the Cross; that the emperors who decree homicide for religious reasons must be fearlessly told that "God is not pleased with these executions," or to whom the saints answer, when they are asked to defend murder, "Rather cut off my head than ask for my consent."

"Here are our deeds, sinners as we are." And St. Theodorus concludes with the scourge of hypocrisy: "For you, O holy men, if you have read another Gospel, which we do not know, it is well; otherwise consider what the apostle explains." [15]

Unfortunately for humanity, before and after him, many official representatives of the faith have read another gospel, a gospel which the great saints did not know, that of persecution, unknown to St. Athanasius, St. Basilius, St. Gregory of Nazianzus, St. Chrysostom, St. Ambrose and St. Bernard of Clairvaux.[16]

In the demonstration of freedom of conscience made in all times by men of different moral attitude and varying greatness, we prefer the reasons of the mystics, the faithful and the believers, from King Asoka to St. Bernard of Clairvaux.

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[14] *Hoc enim adversus hostes; illud contra subditos hereticos.*

[15] *Vos vero, sanctissimi, si aliud Evangelium legistis, quod nos non novimus, bene habebit; sin mimus, considerate quid dicat Apostolus.*

[16] The defense of the Jews by St. Bernard of Clairvaux at the time of the tragic persecutions of the Crusades is narrated in this book.

The defense of freedom of conscience comes easily to skeptics who are not tormented by the thirst of faith, and to the philosophers who stand aside from any religion and who declare proudly that their ignorance proceeds from a higher source. It is easy for the politician to defend freedom of belief and philosophy; for he sees only the convenience for the peace of the state, in letting alone the creeds which survived still strong and unharmed after long and cruel struggles. It is Spinoza's demonstration, summarized by him in the title of his great work, which we always like to repeat:

> *Theological-Political Treatise containing several dissertations in which it is seen how the freedom of philosophizing not only is compatible with the preservation of piety and the peace of the State, but that it cannot be destroyed without destroying at the same time both the peace of the State and piety itself.*

But a saint overflowing with mystic thoughts, who suffers for his belief with resignation, and is ready to die joyfully, a saint persecuted through all his life, who argues and concludes in favor of the freedom of heretics, and who in the mists of the ninth century foresees the separation of church and state, is a miracle of human wisdom and appears to us as a great precursor. He must be given a shining place in the history of human thought, and the church of civil progress must exalt him as the church of God has done.

THE JEWISH MARTYRS OF THE MIDDLE AGES AND ST. BERNARD OF CLAIRVAUX [1]

A FAMOUS and serene sage, Joseph Ha Cohen, who practiced medicine in Avignon, in 1575 wrote in Hebrew a book entitled *The Vale of Tears. Chronicle of Israel's Sufferings from the Dispersion to Our Times.*[2] This work was thought out and composed in great part in 1558 at Voltaggio, in Italy, where, although they were not entirely free from intermittent persecutions, the Jews could gladden their hearts in relative security and peace. This somber book could be entitled *The Acts of the Jewish Martyrs*, and is worthy of comparison with the Acts of the Christian Martyrs for heroic sublimity of faith and the ruthless ferocity of the persecutors.

Both Christian and Jewish martyrs died for their God, for the inviolability of the human conscience. The Christian martyrs had a glimpse of heavenly rewards in their last hour, but it is doubtful whether the Jewish martyrs thought of that.[3] They placidly accepted death rather than surrender, without the hope of hastening with their blood the victory of their faith, without the consolation of an avenging apostolate and certain future triumphs, which converted the torments of the Christian martyrs into joy. Like Jesus, they put their trust in resurrection into the divine substance, while they were near extinction in their human form.[4] But the Jews suffered in gloomy loneliness, and the tragic act of their voluntary death is all the more moving because it is without the hope of either human or divine reward.

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[1] August, 1888.

[2] *Jemek Habakha* by Joseph Ha Cohen. It was translated from Hebrew into German for the first time in Vienna by Dr. M. Wiener, who added numerous notes (1858). In 1881 Julien Sée published a French translation. Dr. Wiener as well as M. Sée give the story of the text and describe its vicissitudes. See also the eleven volumes of Graetz's classical German work, *History of the Jews.*

History will perhaps tell us one day which were the cruelest persecutions and the most heroic acts of resistance, when it will care more for the inner spirit of nations than for external deeds. However, since the acts of the Christian martyrs are generally known, it will be useful to read a few pages in the acts of the Jewish martyrs. They were composed from the documents of victims and eye-witnesses of the persecutions, who entrusted to personal memoirs the harrowing things which they had suffered or seen. All this anguish is summarized in the book that we are now examining, in which history throbs under the legend which is hyperbolic in nature.

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[3] Penalties and rewards beyond life have had little influence with the Jews. God's action upon the Hebrew nation is manifested especially in this life. E. Renan, while not denying the existence of a dwelling-place for the dead, maintains that punishment or reward in another life is a principle foreign to primitive Judaism. The Christian martyrs, convinced of the imperfection of this life, hoped for the future life; but such consoling hope had little influence with the Jews. There exists about this point a whole literature, ancient and recent, which discusses whether the Jews believed in the immortality of the soul. The fact that the controversy exists proves at least that belief in a future life was not widespread among the Jews, and did not console them for present suffering with the hope of immortality.

Here is Renan's passage on primitive Judaism: "*Dans ce temps-là, la religion n'est qu'un échange de bons services et d'hommages entre le dieu et son serviteur; au contraire, les prophètes proclament que le vrai serviteur de Javeh, c'est celui qui fait le bien. La religion devient de la sorte quelque chose de moral, d'universel; elle se pénètre de l'idée de la justice, et c'est pour cela que ces prophètes d'Israël sont les tribuns les plus exaltés qu'il y ait jamais eu, tribuns d'autant plus après qu'ils n'ont pas la conception de la vie future pour se consoler, et que c'est ici bas, d'après eux, que la justice doit régner.*"

Munk, in his work, *La Palestine,* and Philippson in *Die Israelitische Religionslehre* (Leipzig, 1862), to quote only the most important authorities, try to demonstrate that the Jews believed in a future life. This is not the place even to summarize the great controversy; but the fact that there is a debate is in favor of those who do not ascribe a practical, real, effective, action in the daily life of the Jews to the doctrine of immortality. The demonstrations of Munk and Philippson do not succeed in proving their thesis. There was probably only a vague, indeterminate, incomplete belief in a future life. See Staffer's notable work, *La Palestine au temps de Jésus-Christ*, Paris, 1888, pp. 312ff. See in Matt. 22:23-32 Jesus' answer to the Sadducees, who did not believe in resurrection.

The work in two volumes by Adolphe Lodds, entitled *La croyance à la vie future et le culte des morts dans l'antiquité israëlite*, proves the erudition of its author, but is more learned than conclusive.

[4] The patience of the Christian martyrs was due to their confidence in victory. St. Paul said: "Do not take revenge yourselves, but let the anger of God do its work." And St. Cyprianus: "Our patience comes from the certainty of being avenged: it heaps live coals upon the head of our enemies. What a day that will be, when the Most High will count his faithful, will punish the guilty in hell and will cause our persecutors to burn with the flames of eternal fire! What a wonderful spectacle, and what will be my bursts of enthusiasm, my admiration and my laughter!" One of the martyrs of Carthage told the pagans to look him well in the face in order to recognize him on Judgment Day, when he would be seated on God's right hand, while they, the persecutors, would be thrown into the infernal flames.

Martyrdom purifies and glorifies a belief, whatever the belief may be. The people who cannot die for their religion or their country have no value in history, for greatness is proved by the sanctity of woe.

The martyrdom of the Jews shines in the period of the First Crusade. In the heart of the mob starting for the Holy Land there sprang up a ferocious desire to avenge upon the heads of inoffensive Jews the Savior, whose sepulcher they were going to free, and to offer to the God of battles a first holocaust of victims. The crusaders' cry to the Jews was, "Be converted, or die!" [5]

On the twenty-third of May in the year 1096 they hurled themselves like famished wolves on the Jewish congregation of Worms and began slaying all: men, women and children. Then the humble and wretched folk of the congregation were transformed into heroes; many cut their own throats, many laid hands of violence upon their most dear. One slew his brother, another his wife and children; bridegrooms killed their brides, tender mothers their little ones; and all died chanting: "Hear, O Israel, the Lord is our God, the Lord is One."

The rapture of death spread rapidly among the persecuted Jews, all becoming kindled with a sort of heroic fury. At Velinghoven the slaughter took on aspects worthy of a poem. At the approach of the crusaders men and women, the young and the decrepit, offered themselves to God in a sacred holocaust. A venerable old man, Rabbenu Samuel ben Jehiel, had an only son, handsome and straight as a cedar of Lebanon. Being pursued by the crusaders father and son threw themselves into the water; the youth bent back his bared throat and besought his father to sacrifice him. The old man drew his knife, said the prayer for the sacrificed, and cut his son's throat. The youth said the word *Amen* before he died, and the dying Jews who were present at the tragic scene chanted, "Hear, O Israel, the Lord is our God, the Lord is One."

At Altenahr, after the loot and pillage, the Jews were ordered to recant. Three hundred of them gathered in a solitary tower and their religious leaders offered to slay all of them. They consented joyfully to redeem themselves by sacrifice, and Rabbi Gershom, Mar Jehuda and Mar Joseph his brother, Rabbi Peter and Rabbi Jehuda Samuel Ha-Levi, gird their loins and complete the slaughter of their brother Jews. Then Rabbi Peter cuts the throats of the other sacrificers, and hurls himself from the tower. Only two youths and two little children were saved, all of them wounded in the throat and desolate because they survived their dear ones.

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[5] All wars are murderous, but in religious wars there is a furious desire to see the blood of the enemy flow. In the slaughter of the Jews in Germany the crusaders prepared themselves for the sacking of Jerusalem. Raoul de Caen, in the *History of Tancred*, chap. 121, cries: "Courage, divine fury, courage, holy swords, courage, holy destruction, spare nothing. . . . Die under our blows, children of a depraved race!"

In the popular Latin songs of the Middle Ages occurs the following on the conquest of Jerusalem, published by Du Meril:

Rivi fluunt cruoris. . . .
Dum perit gens erroris,
Jerusalem, exulta!
Ipsi traduntur igni;
Vos gaudete, Benigni,
Nam pereunt maligni,
Jerusalem, exulta!

Still, even then, the humane principle of religious toleration was not extinguished.

The Christian martyrs let themselves be slain with the calmness of an ineffable resignation. The Jewish martyrs kill themselves as if disdaining impure contact. The ones, mild and seraphic, descend from Christ crucified; the others, more terrible, descend from Abraham, who offered to God the sacrifice of Isaac, and from Judas Maccabeus.

These episodes of Israel's martyrdom are told in every page of *The Book of Tears,* and in their Biblical simplicity they appear almost ferocious. At Meurs there were two women; one of them gave birth to a child. When they saw the crusaders approaching they took the new-born baby, clothed him, and, says the chronicle,

> being moved by tenderness for it, they threw it down from the tower where they were shut in. When the enemies saw what they had done they took them the day after, dragged them to a neighboring hill, and abused them in their wickedness, without anybody's preventing them. Many Jews were put to the sword; many recognized and worshiped the images, forsaking their Lord.

A rich Jew, Chemaria, after a few cowardly attempts to save himself, is overtaken by a heroic frenzy, slays his wife and his children, and then, summoning his strength, cuts his own throat; but he fainted without dying.

> Then the human wolves order him to abjure his faith, dig a grave and throw him inside, with the members of his family whom he had slain, his wife at his right and his children at his left, and, while they cover him well with earth, they continue to ask him to be converted. But he did not listen to them. Two or three times they removed the earth that covered him, thinking that he would be persuaded to abjure, but he refused to listen to them, and they covered him entirely.

His voice, proclaiming his faith in his God, was heard until it was extinguished with the setting of the sun. The chronicle tells how the persecutors accompanied with mockery the sacred moans of the dying Jew, and the writer exclaims with Isaiah: "And after all that, shalt thou restrain thyself, O Lord?"

The episodes of Israel's martyrdom in that period of the crusades can be counted by hundreds, and after so many centuries they cannot be read without making the blood run cold. Religious persecutions are more ferocious than political hatreds; when men take it upon themselves to kill in the name of heaven, their wrath acquires an inexorable character, because to show pity would seem a lack of faith in God!

To what a vile end would human nature fall if no sense of pity, no heed for the inviolability of the human conscience, would attest to the natural goodness of man, even in the frenzy of the most ferocious persecutions and the worst aberrations?

Amidst the inhuman cries of that slaughter, the voice of a saint was heard asking for mercy on the Jews. It was the voice of a giant of the Christian church: St. Bernard, abbot of Clairvaux.[6]

The chronicle narrates that in the year 1046 the Emperor Conrad and Louis, king of France, agreed to start for the conquest of the Holy Sepulcher. A monk, Rudolf, who enrolled the crusaders in Germany, stirred up the persecution of the Jews, crying: "Let us avenge our Lord upon His enemies who are before us, and afterward we shall depart." The Jews prayed God to save them: God was their refuge in the midst of so much cruelty of men.

> Then, [says the chronicle,] the Lord listened to their moans, He had pity on them, in the greatness of His mercy. And he sent toward the furious persecutors St. Bernard of Clairvaux in France, who harangued them, according to custom, and told them: Let us go to Zion, to our Saviour's tomb, but take care not to speak of the Jews for good or for evil. Whoever touches them, it is as if he touched the pupil of Christ's eyes, because they are His flesh and His bones, and Rudolf, His disciple (the persecutor) has not spoken rightly, because it is of them that the Psalms say: Kill them not, lest my people may forget them.
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> And the crusaders listened to him, because he was venerated among them. Their anger subsided and they abandoned the thought of the slaughter. Still that man received no meed of praise from the Jews, and it is in all sincerity that he had put his word in defense of Israel. . . . If the mercy of God had not sent that priest no Jew would have been saved.

This blessing of the Jews who had escaped death, this profound and moving hymn of thanks addressed to God, who sent among them the merciful monk, throws a ray of celestial pity over the bloodshed. Beginning with St. Athanasius and St. Gregory of Nazianzus there were always mild preachers of tolerance in the religion of Christ. Christianity is motivated by two opposing currents; one leads to faith induced by persuasion, the other to faith imposed by force. St. Bernard is a descendant of St. Athanasius, who did not want violence used against the dissenters but who wanted them attracted by kindness and voluntary proselytism.

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[6] St. Bernard of Clairvaux has given occasion to studies of great importance, on account of his great moral qualities and the saintliness of his life. See, among others, Hüffer, *St. Bernard of Clairvaux,* and Waitz, *Vita Bernardi,* in Vol. XXVI *of Monum. Germ. Hist.* We shall tell another time how St. Bernard's attitude toward the Jews can be reconciled with that which he assumed toward Arnold of Brescia, who had in common with him the purpose to purify the church. In religion as well as in politics, in the most difficult moments and in the heat of great controversy, the adversaries are more respected than the dissenters.

We do not know whether the Hebraic chronicle contained an exact report of St. Bernard's discourse; we are inclined to believe it, and it is probable that the remembrance of the saint's homily was transmitted from generation to generation. But the Hebraic chronicle was probably not aware of two splendid epistles written on the same theme.

The first dates from 1146 and is addressed *to the clergy and the people of Eastern France.* At that time the part of Germany which is on the right bank of the Rhine was called Eastern France. The epistle was addressed to the Archbishop of Speyer and to his suffragans; and was read in several assemblies of princes, noblemen, and bishops, inflaming with piety and zeal the hearts of the faithful. Here is what the great saint said: "Ah! If it is true that I am of very little importance, it is also true that I suffice to wish for you the happiness of living in Christ's love." He would have desired to speak *viva voce*, but he could not. With a magnificent invocation to God he depicts the holy places which are on the point of falling again into the power of the unbelievers, and he urges the Germans to join the crusaders. "Oh! how many of our faith washed away their sins in a happy fountain of tears, after the valor of our fathers drove away the heathen abominations!"

God could send the legion of His angels to liberate the sacred spot, but He wants to put the good will and zeal of men to a test.

> He wants to know if among the sons of men there are left some who intend to watch over His interests, to take care of His glory, and to suffer in seeing him unhonored. It is pity for His people that moves Him, offering them a happy occasion for atoning for their iniquity and becoming reconciled with Him. Meditate once more on the immense wealth of God's kindness and on His infinite mercy. He disposes things in such a way that it seems as if He needs you in order that He Himself may succor you in your need. He desires to become your debtor in order to be able to grant to you forgiveness for your sins and eternal happiness, in exchange for the small services which you may render Him. . . . Happy is this generation to which consent is given by God to draw from the inexhaustible treasure of His mercies. Oh! you who inhabit provinces famous for the valor and courage of the warriors, for the strength and valiant character of the youth; you whose high deeds have filled the world with wonder, arm yourselves and fly with ardor to the defense of the Christian fame. Cease fighting among yourselves and killing each other. . . . Warlike nation, brave and strong youth, I offer you an opportunity to fight without peril for your soul, to conquer with true glory, to die with real utility. . . . The material of which this cross is made is indeed of small value; but if you will

> carry it with feelings of a sincere piety it will acquire for you the Kingdom of Heaven.

And after this exordium he enters into his subject, moderating their zeal and invoking the words of the Apostles:

> Dear ones, do not believe everybody. I have learned with joy how ardent is the zeal that you feel for the glory of God; but this zeal must be seasoned with science and wisdom. You must not persecute the Jews, nor cause them to die; you may not even drive them away from your land; ask for this the pages of our Divine Scriptures. . . . Now here is what the prophet tells us of that unhappy people, and the Church borrows his words and says to you: "God will make known to me the manner in which He wants my enemies to be treated; put them not to death, fearing that my people, seeing them no more, forgets its origin. . . ." The Jews [the saint continues,] are living monuments which render for us ever-living, as it were, our Lord's passion. It is for this reason that we see them dispersed in all the countries of the world; because the punishment for the horrible crime which they committed is an irrefutable proof of the redemption of mankind.

Let us listen now to the language which the Church borrows from the same prophet.

> "Disperse them, O Lord, for Thy power, and make them fall from their state of eminence, Thou, Sovereign Master, who art my protector. . . ." Now this is accomplished; they are dispersed and humiliated; they live in bondage, under the authority of Christian princes. But this unhappy people will be converted at the end of time, and God will cast upon them at the supreme moment a glance of mercy, for the Apostle teaches us that the blindness of the Jews will last until all the nations have entered the Church. [After which, he adds, all Israel will be saved.]

"But, alas! All the Jews who die in unbelief have a truly sad end." And after this clever concession to the vehement passions of his time, from which not even he, the saint, could be immune, he continues:

> However, in countries in which there are no Jews, one meets—I say it with a grieving heart—Christians who practice usury and who lead a life more Judaic than the Jews themselves; so that they may be called Christianized Jews rather than Christians. But if the Hebrew nation disappears from the earth what will become of the promise made to it of a future redemption? And surely, even if we were to deal with idolatrous nations, could we persecute them thus? Ought we not to have to bear with them in our midst? Would it be pardonable to massacre them? If the Jews exercise any violence

> against us we have princes who can repress their violence by force of arms . . . but it befits Christian pity, if it is at times compelled to have recourse to force in humiliating and disarming the proud and the wicked, to spare those who are humble and obedient, above all the Jews, who are the depository of the Law and of the promises, whose fathers were the patriarchs, and from whom, after all, came, as regards the flesh, Jesus Christ himself, who is blessed throughout the centuries. Still, according to the pontifical bull, we must oblige them not to exact usury from those who have taken the cross.

In these words of the saint everything is lofty, charitable and astute, and although he had to consider the crusaders' passions in order to persuade them, a greatly humane feeling flashes through some of his remarkable observations. Those who live in error must not be killed because they could then not be saved by conversion; the Jews are the descendants of the patriarchs and the custodians of the traditions of the Bible. To affirm these two high and universal ideas the saint passes through the passions and errors of his time; but the two ideas scintillate, they emerge from the mediæval darkness, and they permit the Hebrew martyr ready to die for his faith to think with gratitude of the great monk. In this thought of gratitude the Old and the New Testaments are united and mutually purified in a divine conception of love.

St. Bernard's pity came from these two pure founts, as is testified by his perseverance in the cause which he defends. In that same year, 1146, he writes to Henry, Archbishop of Mayence, to place severe blame on the behavior of the monk Raoul, who exhorted the believers to put Jews to death.

> The person of whom you speak to me in your letter has not received any mission to preach, either from God or from men. If, to justify his conduct, this man asserts with ostentation that he is a monk and a hermit, he can and must know this precept: the duty of a monk does not consist in preaching or lecturing, but in humiliation and weeping; the sojourn in the city must be for him like a sojourn in a prison, and solitude must appear to him as a paradise (St. Hieronymus, *cont. Vivil* c. VI). . . . But this Raoul, on the contrary, flees solitude as a horrible prison and considers dwelling in a city as life in a delightful paradise. Three things I find in him to deserve reproach: the right to preach which he arrogantly usurps, his contempt for the authority of the bishops, and his audacious approval of homicide.
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> Indeed, what extraordinary presumption! But I would say to him, Are you greater than Father Abraham? Did Abraham dare to strike when God, who had put the sword in his hand, forbade him to use it? Are you greater than the king of the apostles? But did he not ask the Savior if he might use the sword with which he was armed? You, educated at the school of the wise men of Egypt, and

> therefore endowed with that mundane wisdom which is nothing but folly before God, you answer the question that St. Peter asked Jesus in quite a different way; inasmuch as the divine Savior answered His apostle: Put thy sword back into its place; for all they that take the sword shall perish with the sword (Matt. 26:52). And, I would add, does not the church triumph more gloriously every day over the Jews by enlightening them? Is it without reason that everywhere, from the Orient to the Occident, the church prays God in favor of the Jews, perfidious as they are, beseeching the Lord to remove from their hearts the dark veil that hides the light, and to save them from their fatal blindness? But this prayer would mean nothing if it did not originate in the firm hope that those who live in unbelief will one day be able to acknowledge their error and embrace the true faith. The church knows that the Lord, who can give back good for evil and love for hatred, can be moved and can cast a benign glance over these unhappy victims of error; but, after all, what would become of these words of the Scripture: 'Make them not to die,' and these others, 'that blindness in part is happened to Israel, until the fullness of the Gentiles be come in. And so all Israel shall be saved, as it is written' (Rom. 11:25f.); and, finally, these others, 'The Lord shall reign forever, even thy God, O Zion, unto all generations' (Psalms 146:10).

And the saint closes his epistle with the following words, burning with divine eloquence:

> Now, O wretched man, will you be able to belie all the prophets and annihilate the inexhaustible treasures of the kindness and mercy of Jesus Christ? Surely the doctrine which you teach does not come from you, but from your Father who has sent you to spread it, and I think that in your position as a disciple you have no other ambition but that of resembling your Teacher. But since the beginning he has been a murderer and a liar, and the father of lies. Oh! how frightful is your science! How infernal is your wisdom! How much opposed are they, the one and the other, to the Prophets and the Apostles! Their purpose is only to upset pity and throw into disorder the treasure of divine mercy. Oh! what an infamous heresy! Formed as it is by the unclean substance of the spirit of error and of lies, it can only produce the sorrowful and fatal fruits of iniquity.

The saint concluded, thundering against Raoul, instigator of murder, who wished to acquire a great name in this world by evil practices, "but he has not the means necessary for success." In this letter the thought of the saint is even more clearly holy than in the preceding epistle; the spirit of St. Athanasius vibrates in his soul with celestial kindness. He seems to be a humanistic philosopher of our day who condemns the death penalty because the guilty can be converted up to the last hour, because no one has the right to destroy the earthly life of an immortal soul, which thinks, suffers, and has the capacity for repentance. In this epistle St. Bernard embraces the outcasts with loving delight, he foretastes the joys of their spontaneous conversion, when all the dispersed sons of Israel will gather in an ideal Zion, both those who were christianized and those who were not.

The inviolability of the individual conscience resides precisely in this lofty attitude of the human mind, which tries its strength in an endeavor to persuade the powerful and the conquerors not to impose their faith by violence, not to place the conquered in a dilemma of conversion or death, but to love those whose beliefs are erroneous, and to endeavor to bring them to belief in their own God with kindness, with virtue and with persuasion. A belief deprived of an apostolic function dies out; a belief which pushes its apostolate to violence is profaned and wears away. Words of tolerance, of propaganda, of love and of kindness, of the inviolability of the human conscience, are never uttered in vain. Even when they seem despised and persecution triumphs, their holy leaven is not lost.

To trace through history the tenuous thread of freedom of conscience which connects pagans, Jews, Christians, philosophers, Buddha, Asoka, Maximus of Tyrus, Themistius, Ammianus Marcellinus, Libanius, St. Athanasius, St. Gregory of Nazianzus, St. Bernard of Clairvaux, with Locke, Voltaire and John Stuart Mill, and with modern society—this is the purpose which the writer of this tragic episode of the Middle Ages has set himself.[7]

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[7] In the following letter—addressed to a friend and here reproduced—the program of my researches is summarized. My intention has been to demonstrate how the thread of freedom of conscience was never broken, even when it seemed lost.

Dear Friend and Colleague:

You ask me to take part in your family celebration, in which you mark your dear mother's hale old age, by telling you what thoughts revolve in my mind. I think that we lack a book in which the origin and the explanation of freedom of conscience are narrated; a kind of anthology, to gather and illustrate the opinions of those men who first conceived of the inviolability of the human spirit, and advocated it openly. Perhaps in every moment of the life of mankind there has been a small array of philosophers, skeptics or believers in new religions, who rebelled against the ancestral creed as they faced those creeds which dominated by law or were established by custom. Rebellion has brought persecution, and the persecutors, often erring through a vice of mind rather than of will, also invoke the forgiveness of history. From the rebels come the martyrs and the avenging philosophers who attest to the inviolability of human conscience with their blood and the thunderbolts of science. In Socrates we find both philosophy and martyrdom. I am searching for the first indications and the dawn of the sublime vindications, and you can follow my labors in my works on Spinoza and Themistius, which I am sending you. Between Themistius' demonstration, which has seemed to me the most eloquent and complete, and that of Spinoza, which is more philosophical, I am studying now with fond pleasure the arguments of Coonhert, Spinoza's precursor. An eminent pharisee of the erudition of those days, Justus Lipsius, opposes Coonhert in defense of intolerance, and we ought to hasten the publication of the Anthology of the Freedom of Conscience to note the memorable duel in which the humble Dutch thinker conquers and casts down the proud and fortunate scholar.

In the *Edinburgh Review* an eminent writer advances doubt of possible religious wars before the close of the century. It is certain that intolerance is raising its head even when it is excluded by law, and that the dimming of positive beliefs does not mean a new and

Let us go back to the Acts of the Jewish martyrs which glorify a saint of the Catholic church, and we shall find shining the angelic monk, the virile figure of a soldier and the gentle pity of a woman.

On February 24, 1147, several Jews had remained at Würzburg while most of their brethren sought refuge in rocks and castles. The crusaders found one of their number dead in the river; they accused the Jews of having killed him, and started a massacre. They killed Rabbi Isaac while he was meditating over the Bible, and twenty-one persons who were listening to his interpretation of the sacred text; they wounded one of his pupils who was near him and carried away to a church his sister who, the chronicle says, spat upon their idol and whom they wounded, besprinkled with baptismal water, and stretched over a slab of marble. She pretended to be dead, and at night a Christian woman came who carried her to her house "because she was inflamed with pity for her, and she hid her to save her and take her back to her brother." The Christian woman, whose name the chronicle does not mention, did not have St. Bernard's learning and wisdom, but she had a heart worthy of interpreting his advice. It was St. Bernard's words which blossomed into acts of kindness and which also animated an obscure priest who led some Jews, converted by force, from England to France, where, the crusaders' fury being spent, they could go back to their religion.

The chronicle does not give the name of the soldier-prince who saved a learned rabbi of Ramerupt, wounded by the crusaders. He took him up on his horse, and exhorted the crusaders to leave him with the following words: "Leave him to me, I shall speak to his heart. Perhaps he will be persuaded. If he does not, I shall bring him back to you to-morrow." They listened to his voice, and he saved the rabbi by the mercy of God. "May his name be blessed! Amen! Amen!"

These acts of tolerance and kindness put into relief the thesis that we advance of the historical continuity of the great ideals of liberty. In every age, even when prejudice and persecution rage the most, there is a kind spirit of a wife or an ignorant man to protest against oppression of the persecuted. Whether the protest takes the form of an epistle and a discourse by St. Bernard, or of the merciful act of an obscure woman, or of a saving warrior, it illumines with redemption the picture of martyrdom, and points out the ultimate and certain triumph of the inviolable conscience.

SPINOZA AND THE PRECURSORS OF FREEDOM OF CONSCIENCE [1]

IN the capital of Holland a group of illustrious thinkers and men and women of distinction met to commemorate the second centenary of

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strong affirmation of freedom of conscience. Let us follow again this holy and dear liberty with profound research and let us see if it can find the way to the heart through the mind. September, 1886.

L. LUZZATTI.

[1] July, 1877.

Benedict de Spinoza's death.[2] The man on whose tomb had been written the words: "Here lies Spinoza, Jew and Atheist," as a double epithet of scorn, now gathers about his memory the disinterested respect of the intellectual aristocracy. For a profound change has taken place in human conscience since 1677, a change which is not as yet complete, since the evolution of what is divine is as eternal as the thoughts of God, which it represents. Philosophy, like religion, has its saints. Spinoza is to be numbered among the most immaculate, and takes his place among those exalted thinkers who have looked at truth from different angles, and known how to take from it the greatest cluster of rays. These great minds dominate the world from the solitary heights of ideas, not with the clamor of successful warriors or statesmen but with a sort of modest reverence, which possesses something of a religious nature.

Truly, if religion expresses the *ecstasy of feeling*, the great philosophical systems contain the *ecstasy of religion*; and they reveal in different ways new borders of mysterious lands and unknown continents in this profound, inexhaustible, mysterious realm which is called the human conscience. The philosophers and the apostles are the explorers and geographers of the soul!

It is for this reason that modern science, intent on observing the evolution of nature and of the mind, abhors every kind of trivial and ironic judgment when it examines the great religious and philosophical systems. While admiring the sardonic genius of Voltaire and Lucian this modern science does not absolve them, but holds them responsible for a jeering and sneering crowd of men who dare to scoff at everything which constitutes the hope and faith of millions of anxious and eager souls.

Benedict Spinoza felt the same way. Although he had found in pantheism that peace which frees men from anxious doubt, he was pleased with the sincere credulity of the common people, and strongly advised his landlady never to miss the sermon, enjoying her report every time that she heard it.

The great thinker fully understood and liked pure simplicity of faith.

But we are not here to glorify the doctrine of the philosopher, a doctrine which I have always admired but in which I do not believe.[3] And I purposely employ here the word "believe," speaking of philosophy as I would speak of religion. Supreme assent to a system of philosophy is an act of faith, like the supreme assent to a creed. It is the humanist, the exponent of freedom of conscience, that I want to recommend to the attention of my readers.

Spinoza wrote his *Theological-Political Treatise* in a century of exterminators and exterminated, when the Catholic and Protestant inquisitions sincerely believed that the smoke rising from the stake to which human victims were bound was agreeable to the Lord. In order to understand the greatness and the novelty of his thought it is necessary to refer to the times in which this calm and powerful thinker lived. The struggle of Catholicism against the Reformation had not yet calmed down, and human blood was still shed to appease the wrath of heaven, which not only illuminated but also darkened the earth. For it is fatal that humanity draws from on high both the highest and the lowest inspirations; the virile meekness of sacrifice and martyrdom and the ruthless and perfidious frenzy of persecution.

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[2] The commemoration took place in 1877. Ernest Renan delivered the principal address.

[3] I still remember one day in my youth, in 1859, that I was looking in a Padua book shop for Spinoza's *Theological-Political Treatise*, and I met there Antonio Tolomei, who at eighteen years of age translated the *Ethics* and Lucretius, the Spinoza of antiquity. Our fraternal friendship began then in a discussion about the doctrine of Spinoza's *Ethics*, which at that time I opposed, just as I do now, while I admired the greatness of the system.

Some writers try to attribute to the Reformation all the credit for freedom of science and of conscience, and they do this in order to diminish the significance, the worth, and the novelty of Spinoza's thought. There is no doubt that every successful protest against old and degenerate tendencies promotes, at least indirectly, freedom of belief and of discussion. Tolerance became a necessity of civil life in Protestantism, thanks to the variety and number of religious sects, and I do not deny that a more ideal religious spirit also contributed to it. But when the delicate subject is carefully examined, we must acknowledge the fact that the Protestants were no less violent than the Catholics, especially in the early days (in the sixteenth and the seventeenth centuries).

There are in Luther's life two phases, two periods, two different ways of considering the problem of liberty. When he recalls the glorious precursors of the *Protest*, he sends up to heaven words of apostolic and indignant eloquence, and when he speaks of John Huss, the meek apostle of Bohemia, he exclaims:

> The very stones will cry out against the bloody tyrants of Constance who, in order to maintain their dominions, sacrificed a man, believing that his voice would be drowned in blood. The Papists burn heretics alive because they are not capable of answering their arguments; if it were sufficient to kill them in order to confute them, the executioners would be the most learned theologians.

What noble and magnificent language is this, worthy of the first Fathers of the Church! But the leader of triumphing Lutheranism often forgot the sublime advice of the persecuted theologian.

And, apropos of this, there is an observation that I wish to make on a point which, if I am not mistaken, has escaped the attention of the historians of Protestantism. Reading John Huss' letters,[4] written in the last days of his life, the mind renews the unspeakable anguish of the divine tragedy of Socrates and Jesus; the fire that was to burn him alive extinguished human pity. But if John Huss had vanquished the Council of

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[4] *Lettres de Jean Hus, écrites durant son exil et dans sa prison, avec une Préface de Martin Luther, traduites du Latin en Français et suivies d'une notice sur les œuvres de J. Hus, par Emile de Bonnechose* (*2e édition*), Paris, L. R. Delay, *libraire-éditeur*, 1846.

Constance, would he have forgiven, or punished? To my great regret I can discover flashes of sacred wrath in his confidences to the faithful of Prague and to Bohemian princes.[5]

Faith in freedom of conscience occurs in the victors and not in the vanquished. The hymn to liberty issues spontaneously from the hearts of the oppressed; it is not a principle but an instinct. The instinct becomes a principle when the victors adopt it. Now to go back to Luther; in his day only two religions were known outside of Christianity: Mohammedanism and Judaism. Luther is implacable toward the one and the other creed; his fiery tongue hurls anathemas against them, in the pontifical manner. Luther, harsher than the Catholics, demands in a work entitled *The Jews and Their Lies* that their synagogues and their homes be demolished, that they be lodged in stables and compelled to till the soil for the use of the Christians. If they fail in anything they must be driven out.

And when he saw new sects multiplying around him, and could not hold in his iron hand the movement that he had initiated, he forgot the Bohemian martyr and permitted himself to utter these exclamations: "Are they (the sects) not an inspiration of the devil, and is the devil not a homicide by nature? Therefore all sectarians imperil public peace, and it follows that princes may punish them."

The grim and dark mind of Calvin, the St. Dominic of the Reformation, seizes upon this doctrine. He united in his hands in Geneva the double office of head of the church and of the republic, and he allowed the illustrious Michel Servetus, guilty of denying the Trinity, to be sentenced to death. History records the last conversation between the victim and the tyrant in the harsh French of the time. Servetus asked for forgiveness to save his life, and in him human dignity surrendered to fear. Calvin answered him:

> *Tu dois te rementevoir, qu'il y a plus de seize ans, estant à Paris, je ne me suis point espargné de te gagner à notre Seigneur, et si tu t'estois accordé à raison, je me fusse employé à te reconcilier avec tous les bons serviteurs de Dieu. Tu as fui alors la lutte, et je n'ay laissé pourtant à t'exhorter par lettres; mais tout a été inutile, tu as jeté contre moy je ne says quelle rage plustôt que colère. Du reste, je laisse là ce qui concerne ma personne. Pense plustôt à crier merci à Dieu que tu as blasphémé en voulant effacer les trois personnes qui sont en son essence; demande pardon au Fils de Dieu, que tu as défiguré et comme renié pour Sauveur.*

Servetus found his pride again, and before he died he wrote: "I know with certainty that I am destined to die because I confessed the truth, but my soul does not lose courage, and I want to be worthy in everything of the Divine Teacher." And he died, thinking of the Divine Teacher, whom the opponents of the Trinity and the persecutors invoked alike.

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[5] The controversy between the Catholic church and the Prague government regarding the civil and military ceremonies in honor of John Huss is too well known for mention here. Every time that a thinker or a believer becomes a martyr for the sake of an idea, he rises again and gives his persecutors no peace. But even Czechoslovakia has its faults of secular intolerance, as can be seen in the anti-church actions of 1918 and 1919, tempered but not entirely compensated for in later years.

What a distance between the words of Servetus and those of Calvin! The latter recalls the offense rendered to his person before the offense to God; perhaps, all unaware, he assumes the sorry privilege of infallibility which finds in the name of God an excuse for the anger of offended pride.

Thus if pity was consigned to the flames in Constance by Catholicism, human reason was allowed to be consumed by fire by Calvinism.

Slaughter and massacre fill the pages of history; but to kill a man for his religious belief is sadder and more disgraceful than to kill him for any other reason. Faith is the most precious element of a man's individuality. To derive death from heaven, the greatest crime from the greatest piety: this is the most sorrowful and abject spectacle offered by the guilty race of men! This aberration has only one justification: both Catholics and Protestants sincerely believed that a theoretical error in theology represented a vice of free will, or caused it; hence the repressive action of the state, custodian and avenger of public morality.

Farel, Calvin's friend, said: "Because the Pope condemns the faithful it is absurd to conclude that the heretics must not be put to death." The world becomes an iron circle in every point where death is to be found. An error in religious doctrine gave birth to the greatest crime, which had to be washed away in blood.

The light of freedom of conscience could not come from the old faith or from the new belief.

In Switzerland, Zwingli [6] observes timidly that heretics ought to be subjected to the free judgment of God. But the mild reformer had no following, and soon the gentle apostle died in battle. When the Pope's envoys sang the praises of the new cathedral which was to be built with payments for remission of penalties for sins, he answered, pointing to the Alps, all lit up by the morning sun: "There one can pray in liberty."

The defense of tolerance in Geneva was to be taken up by the *libertines*,[7] whom we should call *liberals*. The libertine Castellion [8] answered

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[6] Zwingli's admirable serenity greatly displeased Calvin. In his *Confession of the Faith*, addressed to Francis I, Zwingli, reasoning about the future life, tells the king that he "must hope to see the gathering of all the holy men and those who were courageous, faithful and virtuous since the beginning of the world. There you will see the two Adams, the redeemed and the Redeemer. You will see there Abel and Noah, and all the saints of the old and the new law. You will see there Hercules, Theseus, Socrates, Aristides, Numa, Camille, the Catos and the Scipios. There will be no just man, no holy spirit, no faithful soul that you will not see there with God. Who can think of a more beautiful, more glorious spectacle?" This is a magnificent speech which had been foreshadowed by the *Mishna* of the ancient Jews in declaring that "the pious men of all nations will have a place in the future world."

[7] "Libertines" was the name given in Geneva to those who opposed Calvin's reform. The term was first used to designate the members of a free-thinking, pantheistic sect of the sixteenth century in the Netherlands, France, and elsewhere.

[8] The title of Sebastien Castellion's book is, *De Hæreticis, an sint persequendi.* Here is a passage from the book quoted in the *Lettres de Calvin*, edited by Bonnet (Vol. II, p. 18). "*Qui est-ce qui voudrait devenir chrestien, quand il voit que ceux qui confessent*

Theodore de Beza, Calvin's friend, who justified the execution of Servetus, declaring: *libertas conscientiis diabolicum dogma.* Castellion, Spinoza's precursor, asked whether the heretics must be persecuted. "Who would not think that Christ were a Moloch, if he really demands that men be sacrificed and burned alive?" These revolutionary questions caused a profound stir in the democracy of Geneva.

It was in Holland that the protests in the name of freedom found their fullest philosophical expression, thanks to the happy traditions of that people, and above all to two great souls: Coonhert and Spinoza. There is a subtle relation between certain nations and certain ideas. The philosophy of freedom of conscience was to obtain its scientific formula in Holland for the first time. The Netherlands conquer the fury of the sea with dikes of stone, and oppose to the Spanish Inquisition, even crueler than the sea, the inviolable dikes of human conscience. Holland, which resisted and vanquished Spain, represented the modern civil conscience, condemning and confounding theocracy.

To find a worthy comparison we must go back to the struggle of the Greeks against the Persians. The Greeks saved at Marathon, arts and letters, the flower of ancient civilization. The Dutch, in the Zuyderzee and in the hundred memorable battles of their obscure heroes, saved the purest flower of the modern spirit, freedom of inquiry. A handful of *Gueux*[9] successfully resisted the masters of Europe, because they had called to their aid the God of modern nations, freedom made holy by sacrifice.

Coonhert is grieved and frightened at the sight of so much bloodshed; he feels he is the brother of those who disagree with him, and he asks for freedom even for the Catholics, in a country where the last sparks of the Spanish fagots were not yet extinguished. He seeks the depths of the theological doctrine, and observes that error is not a vice of will but of the mind. In religion, what is error? Who will be the competent judge? A great pharisee of that time, the erudite Lipsius, takes the field against Coonhert in defense of intolerance. He thinks he has discovered

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le nom de Christ sont meurtris des chrestiens par feu, par eau, par glaive, sans aucune miséricorde, et traités plus cruellement que des brigands ou meurtriers?. Qui est-ce qui ne penserait que Christ fut quelque Moloch, ou quelque tel Dieu, s'il veut que les hommes lui soient immolés et brûlés vifs? Qui est-ce qui voudrait servir Christ à telle condition, que si maintenant en tant de controverses, il est trouvé discordant en quelque chose avec ceux qui ont puissance et domination sur les autres, il soit bruslé tout vif par le commandement de Christ, même plus cruellement que dedans le taureau de Phalaris, voire quand il réclamerait à haute voix et au milieu de la flamme, et crierait à pleine gorge qu'il croit en lui?"

See Ferdinand Buisson, *Sébastien Castellion, sa vie et son œuvre* (*1515-1563*), Paris, Hachette, 1892. It is in two volumes and bears on the title page Michelet's sentence: "A poor foreman printer, Sébastien Castellion, set forth for all centuries the great law of tolerance."

[9] The word signifies "beggars" and was assumed by the league of patriots who, from 1665 on, resisted the Inquisition and Philip II in the Netherlands, from a chance epithet applied to them by one of the court party in addressing the regent, Margaret of Parma. They adopted as their insignia a beggar's bowl and wallet.

the irrefutable argument in a simple question: If we execute those who murder the body, why should we not execute those who murder the soul?

Homicide is surely a crime, answers Coonhert; and when it is ascertained who committed it there is full accord between the opinion of the judge and that of the culprit. But in the matter of heresy the accused person is convinced that truth is on his side and he deems it his duty to express it. And to those who praised the excellence of religious unity our St. John of constitutional liberty answered with these golden words:

"Religious unity is excellent when it is freely accepted, but when force is required to maintain it, it follows that bloodshed must reign permanently. The Catholics will slaughter the Protestants, the Protestants will slay the Catholics. What a Babel of blood!" And turning to his glorious compatriots, to the veterans of immortal strife, he asked: "Why have we shed our blood? To conquer religious freedom. Let us therefore acknowledge the right of everyone to say what he thinks about religion and anything else."

The times were ripe for Spinoza's ideas. He blends in the pages of an immortal volume the glorious protests, the magnanimous resistance and the quiet martyrdom of his fellow countrymen. The spirit of the *Gueux*, who died for their Christ's freedom, passes into that of the philosopher of human reason, who fights and wins a desperate battle against all the Spains of his and future times. The book of which we speak is clear and simple; it has not the sublime abstruseness of the *Ethics* and anybody may understand it.

There is a clarity of genius when genius wants to be clear. Supreme depth and intensity of thought are relieved by transparency. Spinoza is here lucid and formidable, as Auerbach depicts him in a beautiful novel, busy in rounding and grinding lenses as he meditates on the ultimate problems of the infinite.

The short theological and political treatise has two original and profound aspects. In the first part, that of theology, the science of Biblical exegesis is initiated; in the second part, that of politics, an eternal page in constitutional law is elaborated on freedom of conscience. Spinoza's genius is magnificent; he sows truth without effort and almost without attention, in a kind of unconscious creation.[10]

Spinoza, educated by the religion of his forebears in reading the Bible and meditating over it, finds in philosophy admiration, not scorn, for the divine word. He undertakes to interpret it with an historical sense which renders it human without despoiling it of its sanctity. He is one of the founders of the school of Tübingen, which reconstructed the natural and human history of the Bible, passage by passage, with unfailing knowledge.

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[10] In the correspondence between Goethe and Schiller I found, in a letter written by Goethe to Schiller, dated March 6, 1800, the following words: "I am convinced that all that genius does, as genius, is done unconsciously and without any kind of reflection. A man of genius may sometimes act after reflection, but such acts are accessory to his character as genius." Schiller in his answer, acquiesced; these two men were in agreement about the characteristics of genius.

Some nations can assume only one of two attitudes in dealing with the problem of religion; that of superstition or that of indifference. These are vulgar solutions. The correct solution is found in Spinoza's biblical exegesis; that is, the historical evolution of religion, which changes its form but perpetuates its substance.[11] I regret that I cannot devote more space to this study of determining Spinoza's position in the field of biblical criticism; but I am too much interested in the political part of his book. This begins with Chapter XVI, dealing with the foundation of the state, the natural and civil rights of individuals and the rights of the sovereign. One must read these arguments, which follow one another, clarify one another, and lead him to state:

> I. Nothing is more fatal to religion and to the state than to entrust to the ministers of a creed the right to issue decrees and administer public affairs.
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> II. Nothing can be more dangerous than to refer and submit to divine law those things which are strictly speculative, and to impose laws on problems which are or can be a subject of controversy. Truly the government cannot but be violent where opinions, which are the private property of each person, are considered a crime. In such a country the government is usually subject to mob uprisings.
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> III. It can be seen how it matters to both state and religion to entrust the sovereign with the right to decide questions of justice and injustice. Inasmuch as to entrust this right of judging the moral value of actions to the divine prophets would harm the state and religion, how much less could it be entrusted to men who have neither the knowledge that foresees the future nor the power that works miracles?

All this shows a marvelous lucidity of thought and an extremely sharp perception of the question of the hour. No aspect of the question is ignored in the treatment of the philosopher-publicist. Neither does he —as in the case of some modern writers, perhaps even in Mill—despoil the state to crown the individual. Freedom of thought and belief is full, complete, absolute; but at the same time the theoretical competence of the state to regulate the external practice of religion in such a way that public peace be not disturbed is fully acknowledged.

[11] At the end of Chap. XV, Spinoza, whom atheists and theologians depict as a demolisher of faith, speaks thus of the authority of the Bible: "But before delving into the problem I want to note the utility and cogency of the Holy Scripture or of the revelations, which I consider very great. Inasmuch as we are not able to comprehend with the sole aid of our natural understanding that simple obedience is the road to salvation, and revelation alone teaches us that this is done through the special grace of God which reason cannot achieve, we find as a consequence that the Scriptures have brought an immense consolation to mortals. Truly all men may obey, but there are very few, in comparison with the total number, who acquire virtue only by following the dictates of reason. So it is that without the testimony of the Scriptures we would almost doubt the salvation of all mankind."

Every religion has two elements: inner and external, the celestial and the temporal aspects. No matter how high the spire is raised and its summit lost in the clouds, its foundations must rest on the earth.

But the power of the state once recognized, "every one has in a free form of government the right to think what he wishes and to say what he thinks." Chapter XX, in which this argument is developed, is indeed superb. However great may be the rights of the monarch and his title to interpret civil law and religion, he will never be able to prevent men from judging with their minds. And since by an inalienable law of nature no one can relinquish the free right to judge and feel in his own way and to remain master of his thoughts, the state must not prescribe a common formula, in the midst of so much diversity of opinion. But even this freedom must find its limits in the peace of the state, because it can be offended by speech as well as by actions. The supreme end of the state is not to dominate men by fear or violence but to give them safety, that they may develop their faculties in beautiful and rich variety. The true end of the state is freedom. But the citizens must respect the laws of the state, even when they are trying to change them by legitimate means.

This sounds like the speech of a nineteenth century Englishman!

Beyond this obligation any violence or compulsion exercised by the state over individual conscience is vain, ineffective and harmful.

Force does not extinguish ideas. Men may speak in one way and think in another; sincerity, a virtue necessary to the state, will be corrupted. But human nature is made in such a way that when its freedom is offended it resists and reacts. Freedom of thought is necessary if the government is to obtain from its citizens not a forced obedience but a sincere loyalty. Then alone can men, divided by opinions and affections, live in perfect accord. Examples are not lacking, and among them Spinoza mentions with pride his city of Amsterdam, which owes her prosperity to her respect for every opinion. "In this flourishing republic, in this eminent city, all men, belonging to a variety of races and creeds, live in perfect harmony."

The philosopher's demonstration, which proclaims the rights of men before 1789, continues simple and cogent to its end. It seems to Spinoza that he has done a good deed by his exposition of the following six points:

> First, that it is impossible to take away from men the liberty to say what they think; second, that without offending the right and the authority of the sovereign this liberty may be granted to every citizen, provided he does not take advantage of it to introduce novelties in the government or commit actions contrary to law; third, that everyone may enjoy this freedom without disturbing the peace of the state and without any resultant inconvenience which is not easy to repress; fourth, that everyone may enjoy this freedom without offending anybody's piety; fifth, that laws which involve matters of a mere

> speculative nature are entirely useless; sixth, that not only can this liberty accord with the peace of the state, with godliness and with the rights of the sovereign, but it is necessary for the preservation of these great ends.

No later demonstration, whether it be Locke's, Wieland's, Ancillon's, Mill's itself, is greater and more effective than Spinoza's,[12] which contains them all. Ancillon develops admirably one of Spinoza's arguments, that when one does not dare to say what he thinks, one comes to think only what one dares to say, mutilating in this way the human soul. Themistius alone perhaps goes further.

Mill proposes with effective soberness his famous "trilemma," which is found in its most vital aspects in the *Theological-Political Treatise,* but, in my opinion, with greater lucidity and precision as to the boundaries between freedom and authority. John Stuart Mill's three hypotheses can be summarized in the following manner. Man left to himself would either tell the truth or would express an untruth, or else he would not tell the whole truth or would not be entirely untrue. In the first case the offense to liberty may cheat the world of a gospel, or delay its appearance; in the second contingency, if man thinks an untruth and cannot express it he will not be corrected through the medium of controversy or contradiction. But the last hypothesis is of more frequent occurrence. Man is usually a mixture of truth and error and, thanks to liberty, errors and truths meet, destroy each other, and throw light on various issues by their encounter. Liberty is of avail in every case. All this is found in Spinoza almost two hundred years before Mill.

It is our misfortune that these obvious and clear truths have not yet won the assent of the masses. In Europe there are, indeed, very few states in which religious conscience may rest in peace and where the law is inspired by the genius of pure freedom. Men still suffer or struggle to defend or attack a particular creed, and legislatures enact laws in accordance with the passions of majorities, and are not motivated only by the supreme need of liberty. Even in England a severe law was recently passed against the ritualists, in which the external observances of the cult are proscribed and imprisonment threatened against the transgressors. Did we not read in the *London Times*, at the end of the nineteenth century, a complaint against Lord Ripon's conversion to Catholicism because it cost England an eminent statesman? Did not the religious laws of Germany echo in the cantons of Switzerland, those beehives of the human spirit, true laboratories of social experiments? How many little Bismarcks were then found in that flourishing federation of republics! In

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[12] We recall here the following fundamental works on the freedom of conscience: Milton's *Areopagitica;* Locke's *Letter on Tolerance;* Wieland's *Essay on the Freedom of Thought;* Mill's *Liberty.* We mention only the most important works: that is to say, those around which an entire literature and series of minor works are grouped. We make no mention of great and illustrious protests of other countries, for instance those which took place in Italy, where the education of a religious conscience was perhaps thwarted by a lack of religious controversies and different sects.

Geneva a priest was imprisoned because he dared to cross a short street from his home to the church, wearing the vestments of his position. Only after such monstrous attacks on liberty has Geneva finally atoned for her errors with her liberal law. In Belgium religion has divided into opposed camps the people of that young nation, which had bravely effected in 1830 its independence from Holland. Laveleye observes that the division is complete, from the primary schools to the university, from the public houses to the shops. There are even butcher shops which call themselves *catholiques*, and others bearing the name of *boucherie libérale*. Surrounded by so much light of civilization, the seeds and elements of religious conflicts among citizens of one nation brew and ferment in our world, and religious hatreds poison the hearts which the geniality of modern progress tries to temper and join together; heaven is still dividing the earth.

Is it permitted to hope that one day the declaration of liberty formulated by Spinoza will prevail? This is the question. But peace must reign in the hearts of men before it can find expression in laws; we must all be taught to worship our own God while respecting our neighbor's creed. The ardor of proselytism and faith in controversy accompanied by a sincere and frank love for the dissenters: this would be an ideal program.

A biased thinker upholds the thesis that religion is by its nature intolerant, and that until God is exiled from heaven, peace will not reign among men. Must there be a fatal antagonism between celestial servitude and human freedom?

But men cannot bow to such a cruel sentence. Religion and freedom are two fundamental, essential, indestructible facts of human nature. Were religion to disappear the heart of humanity would cease to be; were freedom to perish human reason would be blotted out.

But we still nourish the hope of a final accord between faith and liberty, even if we are to be called idealists and optimists, terms which mean, for a certain positivist school, weakness and prejudice. This hope will be strengthened by the transubstantiation of the Dutch philosopher's mind into ours; and all may approach this sort of ideal pantheism. This sublime sentence ought to be inscribed upon the chairs of philosophy and upon the pediments of churches: *Not only is freedom of thought consistent with the preservation of piety and the peace of the state but if it were destroyed both piety and peace in the state would be annihilated.*

By cultivating this ideal, faith would be purified without being extinguished; freedom would grow, nourishing and never weakening the most vital forces of the human mind.

The kingdom of liberty would indeed be a kingdom of darkness if its coming were to coincide with the death of faith.

ONE OF THE FIRST CITIES WHERE GOD COULD BE WORSHIPED IN FREEDOM

(Providence, Rhode Island)[1]

WHERE is the true and first *City of God*, that is, the city where God could be worshiped in freedom, without coercion, without persecutions, without privileges, in a perfect constitutional manner?

Those who best deserve praise for their services to civil liberty are the men who prepared and led to victory political guarantees, the fundamental and most precious of which is freedom of conscience, although it is generally the last to be achieved. I bow before Tocqueville, Bryce, Labaud, Jellinek, but they in their turn must bow before those heroes, often unknown, who fought for and won the constitutional liberties of Holland, England, the United States and France. The actions of those obscure workers and creators speak louder than the words of a political Demosthenes.

The city of Providence in Rhode Island holds a shining place in the moral world, though it is small in physical space.

Those Anglo-Saxons who left their country and faced the dangers of the ocean to seek in the wilderness of North America the right to worship God according to the dictates of their own conscience, did not know from the beginning how to solve the problem of the relation of their faith to freedom. Every religious group granted independence to itself, excluding the minorities and governing everything, even religion, by the right of numbers. It is true, however, that so much leaven of divided Christian sects, with memories of common persecutions, was finally the cause, through the necessary evolution, of the glorious and full emancipation of creeds, taught to the civilized world by the United States of America, together with the Buddhists.

The story of the debt of the whole world to Holland and Spinoza has not yet been entirely told. And it was precisely under the influence of Holland that the radicals and the independents of England demonstrated about 1640, with stupendous controversies and with humble heroism, the moral, political and religious effectiveness of the free and spontaneous manifestations of a great diversity of creeds.

In Baillie's famous letters we read these memorable words:

"For the truth as well as for the power of religion—this being an intrinsic relation between God and man's soul—we cannot conceive of any human coercive will upon it."

Therefore those precursors asked for freedom of conscience for all sects, even for the Turks, the Jews and the Papists.[2]

But if it is an order of God that there be consciences and beliefs of Jews, Turks and Anti-Christians, they must be allowed to exist. "The doctrine of persecution in the matter of religious conscience, maintained by Calvin, Beza and the New England ministers, is guilty of all the blood of souls who cry for revenge from the altars."[3]

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[1] See Jellinek, *Die Erklärung der Menschen und Bürgerrechte,* and Hermann Weingarten, *Die Revolutionskirchen Englands,* Leipzig, 1868, pub. by Breitkopf und Härtel.

[2] Baillie, *Letters,* II, 181. May 10, 1694.

Moreover, persecutions never achieve their full goal; heretics multiply and the blood shed by them gives them new life.[4]

In a pamphlet published in England in 1649 by an unknown writer on *Freedom of Conscience Vindicated*, we read:

> If I succeed in proving that whoever turns a deaf ear in matters of religion to the imperious voice of his conscience commits a sin worthy of damnation, we must necessarily conclude that whoever induces by force or artifice a human conscience to act in a manner contrary to his faith must be guilty of the same crime. Persecution is spiritual homicide, murder of the soul, rebellion against God, the most heinous of all sins.

Roger Williams left England in 1631 with this opinion, and a short time after his arrival in America was appointed pastor of the church at Salem, Massachusetts. But his soul was too great for minds so primitive and narrow as were those of the men who formed his congregation. He taught an unlimited liberty of religion and asked for a complete separation of church and state.

In his ideal form of government, as he conceived it, nearly one century and a half in advance of his time, Jews and heretics were to have the same rights as Christians of every sect. But not even in the isolation of the American colonies, among those who had fled from their country to seek freedom, was there an inch of land and a scant group of souls capable of being ruled by this sublime doctrine. Roger Williams then founded the city of Providence, and in accordance with his principles bought the land upon which he had settled from the Indians. Believers and persecutors, Catholic or Protestant, would surely have found in the advice of their subtle minded leaders reasons for taking the property without any compensation in the case of former heathen owners, against whom any liberty was permitted.

In Providence even those who had not been able or had not desired to have their children baptized found a safe asylum. The town soon became the refuge of all the believers in different creeds and of all the agnostics. Williams was a mystic; he was baptized by an Anabaptist and baptized others in turn. After three months, however, he was assailed by doubt and became what was known as a "Seeker," or "Independent," and received a new revelation from God which contained Unitarianism in a nutshell. We relate this not in order to trace the religious history of that soul, but to show that freedom of conscience found in him nourishment from the profound sincerity of his faith and the anxiety to seek a God placed higher and higher. He did not reach this great constitutional truth through negation of a Supreme Being but in his own loyal affirmation, for which he suffered the abuse of men and of other churches.

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[3] *The Compassionate Samaritan*, 1644.

[4] *No Papist, No Presbyterian*, a pamphlet published in 1640.

Those saints of freedom of conscience, led by Williams, decided to obey the will of the majority only in civil matters, because religious questions ought to be aloof from every disposition of the law. That seed was to produce the following declaration in matters of religion in the colony of New Hampshire:

> Every one has from God a natural and inalienable right, according to the intimate counsel of his own conscience and his own reason; and no citizen shall be offended, molested or limited in his person, his freedom or his property in the way of worshiping God, in the form or the time which best please his conscience or for his religious profession, for his feelings and his convictions, provided he does not disturb public peace or other persons in the practice of their religion.

Here we have a glimpse of the thought of Williams the apostle; but his doctrine is found entire only in two simple and golden dispositions of the constitution of the United States: No creed shall be privileged or dominating, no creed shall be excluded. From the little nest of Providence came the entire new legislation on the freedom of belief or nonbelief; and the apostles of the seventeenth century had intuitions of public rights which afterward became a doctrine, and which science can hardly elaborate and increase in our day.[5]

THE EXPIATORY MONUMENT TO MICHEL SERVETUS IN GENEVA

THE most atrocious crimes and the most sublime and heroic deeds have been committed in the name of religion: The massacre of the Albigenses, of St. Bartholomew; and the sister of mercy who brings relief and ineffable consolation to those afflicted by the plague; St. Francis who transforms and saves with humility and seraphic gentleness the souls of wicked men. The greatest crimes as well as the most splendid redemptions derive from heaven their impetus and their explanation.

The line which separates proselytism from persecution is so slight that it is hardly discernible; the apostle can have no rest until he communicates—with the humility of sacrifice—his celestial joy to the unhappy beings who are not aware of it; the persecutor is nothing but a degenerate apostle who kills the body in order to save the soul. The apostle offers to his God the gift of spontaneous conversion of the unfaithful; the persecutor offers to him the blood of his victims. Both move from the same point; but the former is a saint, sometimes a martyr; the latter is a criminal, often irresponsible, incapable of remorse, who himself absolves his own conscience with the plea that he must obey the Almighty more than he obeys men.

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[5] After writing the above I had occasion to read two books on the origin of religious freedom in England. One is entitled *Tracts on Liberty of Conscience and Persecution (1614-1661)*, published in London in 1846 (I. Haddon, Castle Street, Finsbury), and it contains a series of arguments, principally by humble and unknown persons, on religious freedom. Some of the titles of the tracts are: *Peace in Religion; a Defense of the Liberty of Conscience; Persecution for Religion Judged and Condemned; A Humble Petition to His Majesty the King; The Necessity of Tolerance in Religious Matters; A Humble Petition and Manifestation of the Anabaptists; A Defense of the Tolerance of Opinions and Conviction in Matters of Religions Dissenting from the Church of England.*

The other book, issued by the same publisher in 1848, contains all the thoughts, arguments and polemics of Roger Williams, and is entitled *The Bloody Tenet of Persecution for Cause of Conscience Discussed*, and has an excellent bibliographical introduction on Williams. It also contains the admirable argument against Cotton.

Civilization, in its inexorable process of evolution, raises the apostle and casts into oblivion the persecutor who, victim of the wickedness of his time and of the sphere in which he lived, and afflicted by a vice of the intellect rather than of the heart, has always believed that he was saving society by striking at the heretics.

I have tried to make clear in this book that in every period of history the supporters, the martyrs, the avengers of freedom of conscience shine side by side with the grim persecutors, by their imperishable theoretical activities or by heroic actions, which are better than scientific arguments. A human being who knew how to die fearlessly for his faith or his philosophy prepared for the emancipation of individual conscience, the triumph of religious freedom, better than any writer on constitutional principles. It is the Christian martyrs who made fruitful the Edict of Milan in 313 A.D. on the equality of all creeds before the law.

Therefore if persecutions arouse on the one hand high and often unconscious protests in favor of liberty, on the other hand they lend relief to the noblest forms of tragic greatness, for those who die for their own God or their own philosophy are even more sublime than those who die for their country. Socrates stands above Leonidas, and Savonarola is greater than Ferruccio. And how can the Christian martyr be compared with the Fabii and the most illustrious heroes of ancient Rome? The virgin who is about to be torn to pieces in the arena and thinks only of arranging her *peplum*, dying resigned in the mild chastity of martyrdom, offers the spectacle of a death that no heroism can surpass.[1] The persecutors themselves permitted the great souls of the martyrs to show their high and truly celestial aspects, to reveal what is divine in human beings.

In the evolution of history what once constituted the greatest infamy now constitutes the greatest honor. The most celebrated and most civilized nations are those which sanction religious equality in their laws and practice with the greatest loyalty, emancipate the individual conscience from its ancient slavery, separate the earth from heaven, the state from the church, and acknowledge the freedom of all creeds and philosophical systems, keeping them in the sphere of mutual civil respect and the supreme institutions of the state.

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[1] In the *Passio SS. Perpetuæ et Felicitatis*, published by Pio Franchi dei Cavalieri (*Römische Quartalschrift für Christ. Alterthumskunde und für Kirchengeschichte*, fifth part, Rome, 1896, pp. 143f.), one of the most ingenuously sublime stories I have ever read, St. Perpetua's martyrdom is narrated as follows: *Prior Perpetua pactata est, et concidit in lumbos, et ubi sedit, tunicam a latere discissam ad velamentum femoris reduxit, pudoris potius memor quam doloris, dehinc, acu requisite, et dispersos capillos infibulavit, non enim decebat martyrium sparsis capillis pati, ne in sua gloria plangere videretur.*

This discovery of individual inviolability of the religious and philosophical conscience which finds its highest theoretical arguments in King Asoka's edicts, two hundred and fifty years before Christ, in the Edict of Constantine in 313 A.D., and in Themistius' discourse of 364 A.D., had its first practical application in Rhode Island in 1641 under Roger Williams. The United States of America, freed from English domination, adapted it to their great republic, setting an example to which all civilized nations aspire.

Religious persecutions are not entirely a matter of the past; but wherever they take place they have the virtue of kindling all kind souls, of bringing them together in a bond of solidarity, in a common protest against the tyranny of a dominating creed. It is no longer permitted to kill while invoking heaven without arousing the execration of men.

The fitness of a people to live in freedom is measured by the way in which it can stand the effects of religious competition, preserve intact its national unity through disputing beliefs, and keep the peace of the state, according to the words of the great Spinoza, so full of meaning and which, purposely, we quote repeatedly:

A Theological-Political Treatise, containing several dissertations in which it is shown how the right of philosophizing is not only consistent with the preservation of piety and the peace of the state, but that it cannot be destroyed without destroying at the same time both the peace of the state and piety itself.

It is natural that the nations which are more refined by political freedom and by culture feel the anguish of the persecutions perpetrated by their ancestors, and seek a way to atone for them. This is a new and sublime form of remorse which is now issuing from the conscience of history. The children do not deny the faith of their fathers, but they desire to wash out the crimes of intolerance with public acts, public confessions, and solemn reparation. A new period, a new era, was announced, and flashes of the first experiments are now appearing. It will be useful to follow them carefully because they represent the finest gift of modern civilization and make us feel the greatness of the times in which we live.

The Calvinists of Geneva [2] wished to be the first in this memorable

[2] M. Claparède of Geneva and Prof. Doumergue of Montauban, the learned historian of Calvin, together with other distinguished representatives of the various divisions of reformed Protestantism, took this glorious initiative. It is right to recall here also the name of Frank Puaux's father, editor of the *Revue Chrétienne*, an excellent Protestant review which does not approve of the present persecutions against religious orders, and who said, "We can only extinguish Servetus' stake with our tears."

exordium of redeeming atonement. Calvin had sentenced to death the Spaniard Michel Servetus—called Servet in Geneva—because he had denied the Trinity. An Italian, Gentili, was to be the victim of the same fate, but he recanted and was saved at that time, only to be executed later in Berne because he repeated his denial there.[3] Servetus could also have been saved at Geneva by pretending repentance and concealing his thoughts. But he was predestined to the stake! Accused of heresy by the Inquisition he was sentenced to be burned alive with a slow fire at Vienne in Dauphiné. He succeeded then in effecting his escape and sought safety in Geneva, where he acquired some influence. Calvin inexorably sentenced him, whether to suppress a personal enemy or to maintain the purity of the faith we do not know. How many times have theologians confused the love of self with the love of God!

Servetus asked that the death penalty be commuted to banishment, refusing to save his life by declaring belief in the Trinity. Vienne claimed her victim but Geneva wanted him for herself and it was Geneva that had the honor of condemning him *à estre brûlé tout vif avec son livre* (*Restitutio Christianismi*).

Ferocious persecutors are often faced by such sublimely obstinate men! The apostles predestined to martyrdom are anxious and eager lest they fail in sincerity. They know that by keeping silent, or recanting, or declaring themselves repentant at least in part, they can save their lives and regain the honors of their position. But a superior force, truly celestial, fascinates and chains them down; they must say what they feel and what they suffer, even if it costs them their lives. John Huss, asked to sign the declaration of submission to the decrees of the Council of Constance, wrote humbly and simply to Jean Cardinal that he "could not disobey the law of God for fear of a pain of short duration, abandoning the truth, with perjury and scandal to my fellow-creatures." And he concluded: "It is of greater advantage, in my opinion, to die than to fall into the hands of God after escaping a momentary penalty, to be afterward condemned to eternal fire and eternal infamy." [4]

Servetus accused Calvin of being Simon Magus [5] in that terrible conversation between the two men in prison at the last hour. This was not right; Calvin was upright in his faith, and his uprightness made his crime even more heinous!

Since Servetus' death displeased some Protestants, and Calvin found himself opposed to Castellion and other defenders of freedom of conscience, the stern Genevan reformer who had founded a theocratic government was obliged to justify himself by recalling that God has ordered his people to stone to death those who divert them from the truth. But *quid est veritas?* Divine truth seemed to the Athenians—who had the finest and strongest minds of antiquity—the opposite of what Socrates affirmed. The Jews, full of patriotism and custodians of the monotheistic idea, believed in the time of Christ that they were preserving the purity of their faith by striking at the Redeemer, and Marcus Aurelius, the purest and loftiest mind of antiquity, saw in Christianity the political and moral ruin of Rome. Those who still dare to persecute for a crime of religion must first ask themselves if they are more intelligent than the Athenians, who had among them Socrates, Plato, Aristotle, Phidias and Æschylus, more religious than the Jews of Jerusalem, more gentle and pious than Marcus Aurelius? [6]

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[3] See Eugène Choisy, *La Théocratie à Genève au temps de Calvin.*

[4] Letter XXXIX, *Hist. et Monum. Johannes Hus.*

[5] See the *Rélation du procès criminel de Michel Servet*, par M. Rilıet de Candolle (*Mémoires de la Société d'histoire d'archéologie de Genève,* 1844).

Thus Calvinistic Geneva claimed for herself the honor of the stake, and the stain put on her by Calvin was indelible until our day. Is it to be wondered at that some chosen sons of the Swiss city, believers and mystics, thought of wiping the stain from its face?

The idea of the expiatory monument dedicated to the memory of Servetus originated in this remorse. We reproduce in its original form the document which announced it, a document which cannot be read without a feeling of profound gratitude:

> *Le 27 octobre prochain sera le 350me anniversaire du jour où Michel Servet mourut sur le bûcher à Champel.*
>
> *Le supplice du malheureux Espagnol fut un act d'intolérance, en contradiction avec les vrais principes de la Réformation et de l'Evangile.*
>
> *Nous voulons regretter publiquement cet acte et saisir cette occasion d'affirmer hautement notre attachement inébranlable à la liberté de conscience, si longtemps et si souvent méconnue par les églises et les pouvoirs publics.*
>
> *Le projet que nous vous soumettons a eu pour un de ses principaux promoteurs M. le professeur Doumergue, de Montauban, l'historien de Calvin. Il a été approuvé en principe, en France, par la Commission fraternelle des Eglises réformées, à Genèva par la Compagnie des Pasteurs. Il a été mûrement étudié par un comité comprenant des hommes appartenant aux diverses tendances du protestantisme réformé, qui se sont mis d'accord sur le texte de l'inscription reproduite plus loin.*
>
> *Il s'agit d'élever à Champel, le plus près possible du lieu du supplice un bloc monumental de granit portant les deux inscriptions que voici:* [7]

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[6] See John Stuart Mill, *On Liberty.*

[7] The monument is now standing in Geneva. Naturally agnostics and free thinkers wanted to set up another to the memory of Servetus as interpreter of their ideas, but this second monument lacks the deep significance of the first expiatory block.

Le 27 Octobre 1553
Mourut sur le Bûcher à Champel
Michel Servet
de Villeneuve d'Aragon
Né le 29 Septembre 1511
Fils Respectueux et Reconnaissants
de Calvin
Notre Grand Réformateur
Mais Condamnant
Une erreur qui fut celle de son siècle
Et Fermement Attachés
A la Liberté de Conscience
Selon les Vrais Principes de la Réformation
et de l'Evangile
Nous avons élevé ce monument expiatoire
Le 27 Octobre 1903

May you be happy, O noble souls! You are the glorious apostles, the admirable initiators of similar future atonements. Through you faith is purified; you cleanse it of its worst sins when you renounce and reject persecution.

Servetus will forgive Calvin in heaven, and Calvin will thank his children for the expiatory act, which to him will seem tardy.

Calvin was an implacable mystic; Servetus a genial believer in God and in the Scriptures. When he was dying he murmured: "Lord Jesus, Son of the eternal God, have pity on my soul." Even for the opponent of the Trinity Jesus represented the divine part in man.[8]

But why do the atoning Calvinists praise their teacher and have not a word of kindness for the martyr? Although they believe in the Trinity they can and they ought to admire that strong man who preferred death at the stake to hypocrisy and dissimulation.

Is it true also that Calvin's act was due to "an error of his century" and was not natural to the suspicious and inflexible theologian?

Ferdinand Buisson has proved that there was no lack of censors for Calvin's act, and that Sébastien Castellion, contemporary of the Genevan reformer and shining light of Protestantism, one of the precursors of freedom of conscience, fought against intolerance in the name of Christian principles, and in this struggle he had numerous loyal followers.

The Calvinists of Geneva would not diminish their deference to Calvin in acknowledging that he erred through his own fault, besides the fault of the times in which he lived. The expiatory act ought to be full, unlimited, without reticence and extremely sincere, if it is to be the introduction to the new Golden Book of emancipated humanity. Faith beautifies itself by throwing away all the dross of intolerance and becomes purer when it has recourse to persuasion and abhors violence. Who can deny that Calvinism could have sustained competition with other creeds more fearlessly if it had not caused Servetus' death in its early days? Luther was more serene; he goes to Wittenberg where the Anabaptists had gathered and preaches for eight days against them, but he forbids violence because he wants to use only religious arguments. He did not, however, always know how to be just!

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[8] Servetus had studied, besides the Bible, all the philosophical systems and all the religions known in his time. He would derive precepts even from the Koran, and according to him the Koran itself indirectly contributed "to the greater glory of our Lord Jesus Christ."

Servetus' *Christianismi Restitutio* is considerably superior from a scientific aspect to Calvin's *Institutions*.

The writer has so much admiration for the initiative of the citizens of Geneva that he hopes some day to see the inscriptions upon the expiatory monument to Michel Servetus corrected.

And now let us pray to God, who is the Father of all, that Geneva's example spread as the swift light which first illuminates the mountain tops and then the valleys. Happy are those people who live on the summits of idealism and are the first to greet it; but those who live in the valleys are not to be blamed if they accept the kiss of the sun later, provided they are vivified by it as soon as it reaches them.

Let us hope that all these reparations may multiply, that the descendants of the persecutors may atone for the fault of their forefathers by the glorification of the victims; forgiveness asked for with a sincere heart will be granted.

If the direct heirs of the instigators of the St. Bartholomew massacre should set up an expiatory monument in Paris to the Huguenots, and the heirs of the revolutionaries of 1793 should erect another to the Catholics cruelly slaughtered in that bloody year, then the victors and the vanquished, the persecutors and the persecuted, would reach a more intense moral height.[9]

These great reparations help the progeny of the oppressors more than they help the martyrs, who are already consecrated by history, and they contribute to the harmony and spiritual unity of nations.

Since all religions had their illustrious victims and their persecutors, participation in these great compensations and reparations would be universal.

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[9] See in Appendix IV how the city of Vienne made generous reparation, and see Appendix V.

I am aware of the fact that the Catholic church has in its bosom some of these sublime souls who entertain ideas of atonement, because an eminent bishop now dead, Monsignor Bonomelli, wrote to me once about Servetus: ". . . The most sacred thing is freedom of conscience, as we understand it, that is to say no external violence, no moral pressure. Religion, says Lattanzio, is a work of persuasion. . . . The act performed at Geneva for Servetus ought to be imitated in Italy for Galileo and others. The time will come; now it is too soon, but it will come. The natural evolution of ideas will bring us also to this reparation. . . . The religious idea is perpetual and universal, like reason; it is reflected as in a prism in the different creeds that exist in the world, just as truth takes different forms. . . ."

The letter goes on to express confidence that in a distant future all churches will unite, coming together with the one which the writer considered to be the guardian of the truth.

If it be true that faith is destined to purify itself in glorious freedom through a continuous spiritual ascent, these expiatory acts glorify its true purpose to worship by love, cutting off irrevocably a terrible past which profaned the worship of God and joined it to the blood of innocent victims.

To supply an example—if the Catholics of Spain should have the heroic courage to erect in the Netherlands an expiatory monument to the victims of the Duke of Alba, Spain would acquire a moral height greater than the damage suffered for the loss of her colonies, because this loss was a final expiation for her crimes of the Inquisition and of intolerance. If Spain knew how to redeem herself by such a glorious act of repentance she would reveal through this alone those virtues which bring new glories, new power and the blessing of history to resurrected nations.

Meanwhile the liberals of Spain and especially those of Aragon, where the martyr Servetus was born, should have sent a representative to the Athens of Switzerland, on the day of the unveiling of the monument to their fellow countryman, who spared his country—because he left it in time—a new religious crime.

I know that this idea displeased the free thinkers of Spain; but there is danger that between the dogma of the free thinkers and that of the heirs of the Inquisition the people in Spain as well as in many other countries no longer know how to think *liberally*.[10]

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[10] It is useless here to warn the reader that, even considering the matter from a Latin point of view, no one loves and admires the Spanish people more than I do, and as an Italian I sincerely wish that the efforts of that nation to regain its ancient position may lead it to the greatest prosperity.

NEW JURIDICAL AND MORAL PROBLEMS OF RELIGIOUS FREEDOM

New Facts and Revised Theories on the Constitutional Relations of Church and State

(The Religious Evolution of Scotland)

In reascending this Chair, which is the great joy of my life, I am happy to bring to you news of scientific progress.[1]

It is the intention of my distinguished colleague, Professor Orlando, and our valued coworker Chimienti—who are justly esteemed for the clarity and wisdom of their lectures—to form, together with me, who have over them only the sad superiority of age, a sort of political seminar. This year Professor Orlando will expound the general idea of the state from the point of view of the political scientist; Professor Chimienti will teach Italian constitutional law, showing the evolution of the principal institutions; and I shall here make the experiment of a special and wholly technical course to be called: New facts and revised theories concerning the relationship of church and state.

What time could be more fitting than the present to renew, by the method of direct observation, such an inquiry?

Toward the end of the last century a man of great talent asked, with thoughtful anxiety, whether, despite the constitutional provisions guaranteeing freedom of worship and freedom of thought, the possibility of religious wars did not remain. May we still descry so grave a portent after Roger Williams and the constitution of the United States; after the proclamation of the rights of men and citizens, the institutions and the practices of England; after the abolition of the temporal power of the Popes, and the organic law of guarantees substituted for it with such prudent foresight? Have not these memorable acts destroyed the fear that at present or in the future that basis of political freedom which includes and determines all the rest may still be weakened or infringed?

Indeed there is no lack of indications that the spirit of intolerance is once more breathing out its evil influence. This is attested by what has been seen and suffered in France in the Dreyfus case, where Zola—the direct heir of Voltaire, whose memory to-day is closely linked to the defense of Calas and Sirven—underwent more bitter trials even than his master, in order to uphold the great principles, to the validity of which heaven and earth should set their hand; because freedom of conscience will not manifest its salutary effects if it is affirmed in laws only and does not spread its influence to customs and habits—if believers do not sense its vitalizing quality as keenly as unbelievers. The Spanish people are still not reconciled to permitting the Protestants to open their chapels in peace. Anti-Semitism flourished again in Vienna; it fades in Germany, but blossoms forth anew to divide the minds of that most learned nation. And the orthodox Russians, with a mad fury that makes them lower than the Asiatics, fling themselves upon the Jews and Armenians, surpassing in a few days, both in ferocity and in number of victims, the massacres of the Middle Ages. On the other hand, the free thinkers—who are often very different from those who think freely—blindly maintain that religion is intolerant in its very essence, and assert that peace will never prevail among men until God has been driven out of heaven by force. And until then, wherever they are in the majority, they labor to drive out the friars; to harass the priests; to affront, in their sublime stupidity, even the gentle nuns!

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[1] This is the introductory lecture in the course in Constitutional Law delivered at the University of Rome December 1, 1905, when I had just left the Ministry of the Treasury, and the law of separation had not yet been approved in France nor rejected by the Vatican. I leave it unchanged because it makes clear the state of my soul in that new and singular period.

In the history of persecution—which is to say, in the greater part of history—it would have been necessary to have the heart of Socrates, of Jesus, of St. Francis of Assisi, or of their disciples, if apostleship was to be kept from the stain of proselytism, if it was to be consecrated by martyrdom; while the inquisitors of every age, moved less by viciousness of mind than by ignorance and fear, have thought to discharge a duty to God by slaughtering in His name. And thus it comes about that, when the descendants of the religious victims triumph, they almost always become persecutors themselves. Scarcely delivered from the papal yoke, the very initiators of the protest against the Vatican, Calvin notably amongst them, oppressed, tortured, offered up to their newly purified Christ the incense of human sacrifice, too soon forgetting that those who would resemble Jesus must be martyrs and not murderers!

Constitutional and penal laws, the necessity for the coexistence of different beliefs and different forms of unbelief (in the United States a great number of religions and sects interpret the same heaven in different ways), the progress of science, that divine peacemaker, generate and confirm the habit of tolerance and justice in religious matters. But suddenly, in the dark hours, when the angelic nature is lulled to sleep and the beast springs to life in man, the spirit of evil bursts forth and the sorriest tragedies of history are repeated. Then, to compensate as it were for the harm that is done to them, the persecuted are revealed as better than the intolerant, because he who suffers for his faith is always finer than he who makes him suffer.

If it be true that out of the savagery of human nature there rises constantly the danger that the constitutional equilibrium will be broken, it is also necessary to recognize that this class of legislation is among the least clear, the least secure, and the least progressive.

Almost all nations still believe in the idea of a creed which shall be dominant but which shall tolerate others; some have better constitutional laws than customs, others better customs than laws; [2] for the most part still, and in countries which consider themselves civilized, inadequate and intolerant institutions, and debased habits, prevail.

In short, as much in its political and juridical contents as in its technical structure, the least verdant and flourishing branch of constitutional law is that which concerns itself with the relationship of church and state.

And still experience teaches us infallibly that it is on the character of this relationship that the happiness of the people and the tranquillity of the state chiefly depend. The excellent words of Spinoza remain eternally true: "Not only does freedom of philosophic speculation assist in the preservation of piety and of the state, but to destroy it is to wipe out at one stroke the peace of the state and that very piety."

And truly the religions, the sects, the schools, when they are in agreement, refine and improve one another reciprocally, as has happened in the United States, in Great Britain, and in Germany, between Protestantism and Catholicism.

But on the other side of the Atlantic, in the flourishing youth of the American world, Story, the most distinguished and authoritative commentator on the constitution of the United States, set forth, as far back as 1833, the non-sectarian habit of his country, remarking with naïve pride: "The Catholic and the Protestant, the Calvinist and the Arminian, the Jew and the infidel, can sit down together at the common table of the national councils without any inquisition into the quality of their faith or their worship."

Before welcoming political exiles the American colonies gave hospitable asylum to the religious refugees of Holland and England, and provided a temple of liberty for the faiths that were oppressed.

In 1632 Roger Williams, the saint of freedom of conscience, founded in Providence the first city of God, the first city where one might worship the Supreme Being without fetters and without privileges, in a constitutionally perfect manner.

This select band of Protestant mystics, guided by their apostle, demanded freedom also for Turks, Jews, and Papists, the Papists being put after the Turks and Jews out of hatred of the Inquisition. But they were no less severe with the persecuting Protestants, guilty, as they said, of such rapacity of soul that they cried for vengeance from the very altars. And they were superior in their concept of the truth to the great Milton, who, among the first, defended so admirably freedom of thought and of conscience, for all except the Catholics, on the ground that they obeyed a foreign master, and it was repugnant to him to grant freedom to one who wished to take it away from others. Milton was less just and less good than those obscure upholders of the right whom we now bring to light once more, for they understood well that in defending freedom candor and good faith can only be maintained by granting that freedom even to the adversaries themselves.

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[2] Dicey, *Law and Opinion in England*, London, Macmillan, 1905, although deficient in some respects, makes clear the effect of public opinion and customs on the laws relating to religion in that country.

In the mind of every believer constitutional freedom cannot but be freedom from error.

How Roger Williams handed on the torch of tolerance to the colony of New Hampshire, how New Hampshire tended it and spread the wonderful, lively flame among the constituent founders of the United States of America, we shall relate in the course of our lectures, and that narration will be their most solid and fruitful part.

Meanwhile, in these days, the example of the United States is invoked by two great nations, France and Scotland, which by means of solemn disputation arrive at laws and institutions that have a new constitutional character.

The recent French controversy is better known than understood; the unrest in Scotland from 1900 to 1905, which has raised new and vital problems of public law, seems still to be completely unknown.

It is fitting that we set forth the most striking aspects of these so great and unusual reforms.

French laws relating to religion had been pantheistic, as in one period of ancient Rome. All the creeds recognized by the state were maintained by particular appropriations included in the public budget; Catholics, Protestants, Jews, Mohammedans, found their haven there. The Minister of Creeds echoed with amiable indifference all these different religious tones, and fused them together in common and peaceful servitude to the Napoleonic Concordat. The new law, renewing the guarantee of freedom of conscience, does not recognize, does not support, does not assist, any longer, any creed, canceling all the appropriations in the budget of the state, the province, and the municipality. It is a veritable revolution, after the example of the United States. The property, real and otherwise, appertaining to these creeds, was turned over to associations of adherents, resembling those which were proposed by some eminent statesmen in Italy in the application of Article 18 of the Law of Guarantees.

As a result of this innovation, in the future those who pray will pay, and the Pope will take the place in the appointments and offices of the church which has been held until now by the state, under the Napoleonic Concordat. The Italian law, with a wisdom which time has confirmed and consecrated, proclaims complete freedom of discussion and inquiry in religious matters; relieves the Catholic clergy from any spiritual bond with the state; gives back to the Pope and his hierarchy the fullness of power over the church; and reserves to the government only the temporal right of assigning major and minor benefices, except in the See of Rome and its suburban parishes. Our country has preferred, as yet, not to entrust the ecclesiastical property to the respective congregations of adherents, in order to avoid such bitter controversy in all parts of the kingdom as will probably break out in some municipalities in France.[3] In fact, the associations will either have to render up the churches and other property to the designees of the ecclesiastical authority—in which case they will be but agents of transmission—or refuse and precipitate a conflict. And at present there is more wisdom in that Italian law which prudently reserves to the state, until the political activity of the church has become entirely religious, the power of yielding the enjoyment of material goods to the major and minor clergy.

It is known how much has been contributed to the religious peace of our country by that prudence on the part of the state which the French legislators too quickly, and without allowing for a gradual transition, abandoned, trusting entirely in the associations. I believe, and I have said so to eminent statesmen of France, that if she had studied carefully our ecclesiastical public law, she would have been spared some mistakes which may cause her trouble.

We must not forget that this ecclesiastical public law of ours belongs to a people that has abolished the temporal power of the Popes; it bore the curses of the Vatican with that firm patience which is the favorite daughter of freedom; and it promulgated that admirable Law of Guarantees which increased the spiritual glory of the Papacy, gave to Italy the occasion for a provision worthy of Latin sagacity, permitted the peaceful coexistence in Rome of the king and the pontiff.[4]

There remains in the French plan a taint of the ancient intolerance unknown in the institutions of the United States, upon which it is modeled. I allude, among other things, to the provisions, which we shall examine in the course of our lectures, on the policy of the creeds, as it is called in Part V. These few words serve only to reveal a tendency which is suspect.

And there are traces of persecution in the laws concerning associations and the manner in which they are enforced.[5]

Why, on this supreme question of faith, has this great, and to us so dear, nation of France harbored such patent and painful contradictions?

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[3] The experiment was not made until later for reasons given in the Introduction.

[4] Nowadays they discuss seriously, in ecclesiastical circles, the notion of recovering the appanage of the Pope with arrears. We shall occupy ourselves in these lectures with this controversy too; in any case, how far we are from those first disdainful refusals! We publish in Appendix No. 6 a letter of Q. Sella, Minister of Finance, to Cardinal Antonelli, and Cardinal Antonelli's reply.

[5] There has appeared in France during these last two years a large literature, composed more of polemic than scientific writings, relating to the separation of church and state. The parliamentary discussions in the Chamber have been in many respects most remarkable, especially for the debates of the Deputies Briand and Ribot. Ribot has confirmed once more the authority of a superior statesman and the force of his logical eloquence. Among the immense volume of publications (which we place at the disposal of such students as realize the high value of such research), it is pleasant to recall a little weekly paper, *Demain*, which expounds with great dignity the point of view of the liberal Catholics; and the *Revue Chrétienne*, which expresses that of the Protestant churches. The *Demain*, which, however, accepts the law, justly criticizes it for not a few tendencies inimical to religion, and therefore contrary to the shining example of the legislation of the United States of America.

Why have the two Frances, that of Saint Bartholomew and that of the Revolution, not yet succeeded in extinguishing their terrible rage against the organic institutions of constitutional freedom? When will the two Frances—with institutions born of the universal conscience, and which do not seem the triumph of one part only—expiate the sins of the Catholics against the Protestants and the Jews, the perhaps even more terrible sins of the Revolution of 1793 and of the Commune of 1870 against the Catholics? Here the expiation can only be the emancipation of all consciences, each one won over to guarantee freedom to the others, which alone will restore to France its lost moral unity, and extinguish in her great heart these last flickerings of that druidical fire which again and again breaks forth anew to demand, in the name of God or against God, the sacrifice of human victims!

Noble great nation! Whoever loves you for your chivalrous spirit, for the immortal ideas spread throughout the world, for that reckless generosity which constitutes your honor and explains your allurement, will wish you to study anew, with the mind and with the heart, from which issue always the best thoughts, this difficult constitutional problem. As brothers we wish you to undertake the mission of giving to Europe its first experiment with the admirable institutions of the United States, in whose potent crucible all faiths and all unbeliefs are fused together to form the American citizen, the most humane and most liberal citizen of our times, despite that lust for money which inflames him.

In this course of lectures of ours we shall also consider in detail the religious evolution of Scotland, full of new problems of public law unknown to our science, the recent cases, from 1900 to 1905, not yet having added to our theoretical structure.

The Anglo-Saxon world, on which the sun of liberty never sets, continues to offer to public law its most precious and conclusive examples; in the relations between the state and religion England, Ireland, Scotland, Wales, and the colonies are full of fruitful and too much neglected lessons.

As a sign of political dominion over the conquered, Oliver Cromwell had established the Protestant church in Ireland as sovereign over the church of Rome, and the Protestant landed proprietors as sovereign over the native farmers, in a country essentially Catholic. Power and wealth flowed of necessity to the clergy and the military representatives of the conquering God, until in 1869 a great statesman, religious and pious, dissolved the corporation of the Protestant church, assigned its income to be used for educational and charitable purposes for the benefit of all, and gave it liberal laws, allowing it to live, under a parity of conditions, side by side with the Catholic church, pacifying by constitutional justice both the victors and the vanquished. Thus the God of vengeance was transformed into the God who illumines with His glories the head of the good and of the wicked!

Fittingly we shall explain, perhaps for the first time, the technical rules which regulate the new life of these churches; here we shall say only that Gladstone, divining the future, in dictating the laws of the liberal Protestant church in Ireland, admitted that he might in the future change its faith in accordance with the clearly indicated will of the majority of believers, thus casting, as we shall see, in the ecclesiastical public law of his country, a divine seed which will blossom in glory and in honor.

People are not more disposed to-day to accept the hereditary faith as an inheritance without the privilege of taking stock to determine its value; but, impatient of progress, they wish, even in the mystical ardors of religion, to evolve and perfect their own creed too. The public law ought to assist and protect them in this new and powerful aspiration. It shines forth most bright and splendid in the astoundingly novel instance of Scotland, which will be set forth in detail in this course.[6]

And thus I may succeed in planting in your mind the lively emotions which I have experienced in examining and studying the intimate essence of this Scottish conscience, the creator of new religious forms, and perhaps of new truths! Here I shall give but an abridged indication of it, enough to show the importance and the beauty of such studies.

As far back as 1689, Scotland had an established Presbyterian church, recognized by William III. The king of England, as is customary under Protestantism, is also the head of this church, which is regulated in an autonomous and almost republican way, and obeys the Declaration of Faith of Westminster. As ripe fruit falls from a tree, in 1843 a great mass of adherents broke away from the parent organization and renouncing the riches of the established church, formed the Free church. We shall see later the differences that distinguish the parent from the child; now I shall say only that it was not a question of substantive differences in doctrine but of internal arrangements, and that while living solely on the contributions of adherents the Free church, too, recognized the duty of a Christian state to promote the true Christian faith and protect the churches which sustain and represent it.

Side by side with these two types of Protestantism there flourished the United Presbyterian church, the ancient rebel against divine *stateolatry*, denying decisively to the state, according to the model of the American republic, the right to interfere in religious matters, and declaring it incompetent to enter a field ruled over solely by the individual conscience.

Now here is where the first problems arise. How do the various groups of adherents in Scotland, where religious unrest is so active, detach themselves from a state church? How do they create, and with what statutory guarantees, a new church? Upon what constitutional theory do they base such actions? All this I purpose to examine here for the glory of our study, and for the practical utility which can and ought to follow such an investigation.

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[6] On this religious evolution of Scotland the reader will find two special chapters in this book, bringing the subject up to the present day.

As has been said, in the minds of Scotland's Christians there glow constantly mystical aspirations.

The Free church, with four hundred thousand communicants and with about a million persons directly or indirectly interested in its welfare, with more than four million pounds of real and other property accumulated from 1843 to 1900 through the spontaneous generosity of its adherents, has founded chapels, schools, charitable institutions, all over the world by the inherent virtue of the apostleship which makes it sublime; it cares for the poor and the rich alike; for the wealthy Glasgow manufacturer as for the wretched highlander and fisherman. Because in free churches, especially Protestant, where the believer pays directly the expenses of the cult, the greatest danger is that the propertyless, the poor, will be neglected; the state churches—and this is the great glory of Catholicism—set out to become every day still more the churches of the poor, who need a free God as much as a free school!

For many years a great majority of the adherents of the Free church had been modifying their dogma and their political credo, and, as a result of this happy progress, had approached the United Presbyterian church. In fact, they had been getting further and further away from the absolute rigors of the doctrine of predestination and grace, expressed with the greatest harshness in the Declaration of Faith of Westminster, and according to which not only is there no salvation in good works but not even the purest and most disinterested faith can absolve one who has not been selected by divine Omniscience! These progressive Scots felt the need of a religious philosophy less hopeless and less savage, which is a token, on this point, of the superiority of Catholicism over Calvinism and Lutheranism.[7] And they had come near to an agreement with the ancient rebels also, because, having lived so many years in autonomy, they had absorbed the doctrine of liberty, which resolves itself into the incompetence of the state in religious matters, a view rigidly held by the United Presbyterians.

Why, then, live thus? Faith which separates itself from one thing, in its insatiable internal activity, joins itself to another. Thus in 1900 (a year memorable on this account) the assemblies of the members of the Free church and their ministers, hospitably received by the other church, decided by a huge majority,[8] to unite, only a tiny band of pastors and adherents, composed principally of highlanders and fishermen, remaining opposed to this decision.

This minority resorted to the tribunal of Scotland, maintaining that the Free church could not dissolve itself, to be fused with a new organization. It was not legal to change the essential nature of the Free church, which is fixed in its charter, to modify its doctrines and dispose of its property, consecrated by general and particular foundations to offices and works of the extant corporation. The majority could desert, but the Free church, with its statutes, its rites, its moral and material substance, should remain unharmed.

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[7] On the origin of the doctrine of predestination and grace I have written in the introductory lecture to the Course in Statistics in the University of Perugia, *Essay on the doctrines of the religious and philosophical precursors of the present-day fatalism of statistics*. It is published in this volume.

[8] The fusion with the United Presbyterians was decided on in May, 1900, by a vote of 593 in favor against 29 lay representatives and 30 ministers opposed; and the United Presbyterians voted in favor of it in October by a vote of 643 to 27.

The lofty controversy agitated their minds; Scotland was divided, the theologians disputed, the casuists made distinctions, the politicians, as is their custom, vacillated; a whole nation of merchants, fishermen, sailors, farmers, manufacturers, seemed to lose that sense of reality which had given it such strength, to become a race of mystics. . . . And every one, at the beginning of the twentieth century, talked about predestination, grace, the separation of church and state. . . .

In this shining fountain of idealism the people bathed their souls; they purified themselves; they hardened themselves to the harsh trials of life; they elevated themselves also in their affairs, but by virtue of these spiritual ordeals did not degenerate into a worship of these affairs.

The Scottish court of justice rejected the demand of the minority,[9] but the latter, pricked on more by the gadfly of faith than by greed for the worldly goods, were not content, and resorted to the House of Lords, which in Great Britain holds the position of the supreme court. That tribunal, after profound discussion and only by a majority of votes, upheld the contention of the minority, decreeing irrevocably that one could not destroy a church, change its essential principles as fixed in the charter of its foundation, and divert its property to uses other than those fixed by the donors and testators. The majority of the adherents could not upset the laws which governed their foundations; this might have been done under a future law, but not under the law then existing. The supreme court adhered rigidly to the classical rule of English law, according to which no corporation may exceed the powers granted to it. In other jurisdictions, on the other hand, a legal entity may perform whatever acts are not forbidden by law; in England it may do only that which it is permitted to by its charter of organization.[10]

As may be imagined, the minority of the Free church rejoiced, and with them rejoiced all the conservatives; the majority thundered furiously, refusing to consign to a small handful of the faithful, churches, schools, asylums, and rents, all the fruit of so many years of labor, study, piety, and sacrifice. And the majority, to arouse the minds of the people against the unappealable verdict which they deemed iniquitous, was at great pains to show that the greatest part of the institutions and income of the new Free church had sprung from the donations and activity of those who wished to join with the United Presbyterian church. They who had paid with their labor and their purse—how should they remain the prisoners of a pharisaical interpretation of the laws governing trusts and trustees?

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[9] On the varieties of Protestantism in Scotland see Tailor Innes, *The Laws of Creeds in Scotland, a Treatise on the Relations of Churches in Scotland, Established and Not Established, to the Civil Law,* Blackwood, 1902, a masterly work, mentioned also in the verdict of the House of Lords. This work contains also the first verdict against the minority of the Free church. See Lord Low's *Judgment,* pp. 343-354.

[10] See the work of W. A. Preston, *Étude sur les Trusts et les Trustées,* Paris, Daragon, 1904.

With a high competence praised by the English writers themselves, Julius Hatschek considers the matter of the organization of trusts and trustees in his notable work recently published: *Englisches Staatsrecht,* I. Band: *Die Verfassung,* Tübingen, Mohr, 1905.

Hatschek is already famous for his politico-administrative studies, and another of his writings, *Die Selbstverwaltung in politischer und juristischer Bedeutung,* has a recognized technical value.

According to these odd interpretations it would be impossible to spend or to turn to other uses the legacy of an ancient Roman testator, sworn to on an altar burning to Jupiter; in homage to the will of the testator it would have had to remain untouched, even after the end of paganism!

Of course in the heat of the battle with these paragons it was forgotten that, among the causes of the verdict of the high court of the House of Lords, a clear-cut distinction was made between what justice, under the existing laws, could not do and what a new law would have been able to establish.

The Scottish controversy spread to the rest of Great Britain and to the colonies, because it interested all the churches and the sects, and it reached such a degree of vehemence that it threatened to degenerate into civil dissension. Then, as is the custom in that liberal country, there was formed a really authoritative investigating commission which questioned all with the utmost impartiality, the victors and the vanquished, studied the precedents thoroughly, and ended by proposing a law of arbitration, full of statesmanly wisdom, which was passed by Parliament with splendid administrative provisions last July, and of which we shall examine the essential elements. To-day a Royal Commission, composed of five wise and impartial men, functions, examining all the technical details and assigning to the majority and to the minority whatever is necessary to protect equitably every legitimate claim.[11]

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[11] I note here in abbreviated form the list of the official English documents on this controversy.

The decision of Justice Low (Scottish court) is to be found in the book by Innes already cited and in the documents there summarized.

The decision of the House of Lords upholding the petition of the minority of the Free church is to be found in *The Times Law Reports* for the week ending August 9, 1904, at p. 730 of Volume XX.

The supreme justices of the House of Lords were: The Earl of Halsbury, Lord Chancellor, Lord Macnaghten, Lord Davey, Lord James of Hereford, Lord Robertson, Lord Lindley, and Lord Alverstone.

The decision of the House of Lords was rendered on an appeal from the decision of the Second Division of the Court of Sessions of Scotland (being Lord Justice Clerk, Lord Kingsbury, Lords Young and Trayner) affirming the decision of the Lord Ordinary (Lord Low).

The supreme judicial chamber of the House of Lords heard this weighty case twice: November 24, 1903, and, because of the death of one of its members, Lord Sands, a

As we learn from the study of this splendid case, the problems of constitutional law intersect and are entangled with those of civil law, and deserve—as they shall receive—the most attentive examination. And meanwhile it is clear that the civil tribunals were forced, in the nature of things, to examine the doctrine of predestination and grace, and the doctrine of the separation of church and state, not in and for themselves but in so far as they constitute the essence of a church, bind the faithful together, and create relations between rights and positive duties.

And the dominant question is always that of the property assigned to certain offices, administered under the juridical guarantees of special organizations, which can neither dissolve of themselves nor as a result of the changeable vote of the majority. There is need for constitutional regulations to govern all these matters, there is need for positive provisions. And then the too rigid doctrine of absolute separation comes into conflict with unforeseen difficulties, real and inevitable; the churches must be separated from the government, but, as is seen in these great controversies, they cannot be separated entirely from the state and from its laws. The winged spires which lift the flight of prayer among our supernal spheres, the more loftily they rise, the more deeply they have their foundations in the ground; the invisible church of the soul is as free as thought, but the visible, because of its material contacts, is dominated by the civil laws of the state, which public law should come into harmony with the inviolability of conscience. This is gleaned from the studies we have touched upon; these fearless Scotsmen, mystical and positive, always sincere, we thank from our Chair in the University of Rome for the contribution they have, without knowing it, brought to the science of public law.

Such is the destiny of the British people, who, developing their own political conscience, elaborate the structure of constitutional discipline with that same spontaneity and historical continuity with which the ancient Romans laid the foundations for universal civil law.

You, O youths, are fortunate in being able to live in a creative period, which is attacking the great religious and social problems, illuminated by science, and girding itself up to prepare, we may well hope, for the new renascence of our society. In other times, in the Middle Ages which still continue in some places, a theology that was the mother of dark prejudices and the mistress of the state suppressed science by force. So by a natural reaction science, enamored of and intoxicated by

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second time in June, 1904; the decision is of August 1, 1905, as are the opinions of the dissenting justices.

Royal Commission of Inquiry on the Churches of Scotland, *Report of the Royal Commission,* Vols. I and II. This latter contains also the *Minutes of Evidence* (questions and answers) and valuable appendices. See also an *Interim Report* of Commissioner Sir John Cheyne.

Bill presented to the Commons as a result of the inquiry: notable discussion in the House of Commons and the House of Lords. Law entitled *Churches* (*of Scotland*) *Act,* 1905 (5 Edw. 7, Ch. 12). The Royal Commission created by this law with a position of supreme power, tempered by wise regulations, consists of five members, and has already almost finished its task.

its own self, set itself to discredit faith. But the intolerable outrages committed by the inquisitors, in the name of theology or of reason, are outside of constitutional sanction. Whoever does not protect by public law faith and every faith suppresses the heart of humanity; whoever does not protect the infinitely free researches of science, which knows neither bounds nor bridle, suppresses reason, the law of the evolution of life itself.

Now public law cannot tend to weaken or wipe out the inherent qualities of human nature; its duty is to care for it, to respect it, to protect it in its organic expansions.

Ecclesiastical and Jacobin outrages produce hypocrisy, but notoriously provoke holy vindications and fruitful rebellions.

And public law, which excludes none of the live forces which are the fountain from which the advancement of customs and wisdom is constantly renewed, ought to weld all natural differences into one great, splendid, formula of social equity, the dispenser of internal tranquillity, the preparer of public peace. Thus will the vow be fulfilled of so many thinkers and so many martyrs, who will not have died in vain for their religion and their philosophy.

At the beginning of this lecture I called to your attention, as was my duty, the demoniac spirit of intolerance which, unexpectedly, breaks out and rearises; but in the act of taking leave of you, young men, the sure hope of our country, I want to call to your attention the monument of Michel Servetus, burned at the stake because he did not believe in the Trinity—which to-day the heirs of Calvin have erected in Geneva—to expiate the sin of the founder of their church. Perhaps the hour is not far distant when the descendants of the revolutionaries of France will raise in Paris a monument to the forgiving shades of the priests massacred by their fathers, and when the Catholic heirs of Saint Bartholomew will erect there a statue sacred to the memory of Admiral Coligny. In that memorable day, which we await and also prepare for with the advancement of constitutional law, we shall have a purer Catholicism and a purer democracy, because both the one and the other will publicly repudiate and expiate their most fatal mistakes.

It is for you, to whom it was not granted to fight for the redemption of your country, to serve it *mundo corde*, to free it from reactionary and Jacobin prejudice, by digging to the bottom of these studies, which seek the truth for the sole purpose of doing good to the civilized world.

A Courageous Application of Religious Freedom concerning the Scotch Church in Italy [1]

THE dominant ideas of the Scottish churches, among which two that are sought after are an elevated state of mind and the moral beauty of inward convictions, cannot easily take root in the mind of our country.

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[1] 1908.

However, partly out of a love for extension, partly to provide the charity of the native God to those Scotsmen who travel in Italy, the Free Church of Scotland raised its hospitable tents at Geneva and Rome.

After the decisions of 1900, when by a huge majority, by a spontaneous and special act of faith, as we have related in the preceding chapter, the Free Church of Scotland and the United Presbyterian church were joined together, taking the name of the United Free Church of Scotland, did the adherents residing in our country follow the spirit of conservatism or that of reform? In Italy there is a moral atmosphere in religious arguments which spurs on those who are outside the Catholic church to daring reforms. Hence we should not be surprised if the Scottish evangelical ministers, Donald Miller and Gordon Gray, petitioned the Minister of Justice for the right to change the name of their church, siding openly with the reformers against the conservatives.

Let us here summarize once more the precise constitutional point of the controversy.

The evangelical ministers, accepting as just in all its parts the diligent study which I had made of the discord among the Scottish churches, appended it to their petition for the remedies invoked. They asserted that after the fusion with the United Presbyterian Church had been decided upon by a great majority of the adherents and ministers of the Free church, a tiny minority of the Free church resorted to the Scottish court of justice, maintaining the illegality of the union and incorporation of the property, and, on receiving a contrary verdict, appealed to the House of Lords, which upheld the contention of the minority.

As I have shown in the preceding chapter, the House of Lords, in irrevocable fashion, decreed that one cannot destroy a church, nor change the essential principles of its organization, nor divert its property to uses other than those fixed by the charters of the donors and testators. And since the majority refused to give up the churches and the property to the minority and the controversy threatened to degenerate into a religious war, there was appointed, with the customary sincerity of the British constitutional system, a commission of inquiry which placed between the two contending parties a committee of arbitration, empowered to examine the grievances of all and to distribute equitably and unappealably to the majority and the minority the property of the Free church of Scotland.

This law of August 11, 1905, modifying the traditional principle that no corporation may exceed the powers granted to it by its charter, admitted the right of the majority to transform a church, recognizing however the right of the dissidents to a proportional part of the property. The British Royal Commission, in unappealable decisions, having the force of law, completed its difficult task on March 11, 1907, assigning to the United Free Church of Scotland, that is, to the new religious entity, all the funds and real estate on the continent of Europe which had belonged to the Free church before the union; with respect to Italy, therefore, the transfer of all such property, subject to the opinion of the Council of State, was authorized.

In the face of these acts performed by the British state, what ought to be the constitutional conduct of the Italian Government?

According to our statutes the freedom of all churches and all creeds is recognized; the Italian state, with equal impartiality, grants them all the protection of the law.

The decision of the Court of Cassation of Rome, which we publish in an appendix,[2] fixes this in an irrevocable manner, linked with the last line of Article 2 of the Law of Guarantees, plainly proclaiming free discussion on religious matters, and with the Penal Code, which in Title II, Chapter II speaks of crimes against the freedom of creeds, doing away, in these few words, with all the ancient privileges and the ancient distinctions.

Therefore, just as the Free church of Scotland has been able to function in Italy, so the same right should be vested in the United Free church, since it no more than the other offends by its statutes either public order or the good usage of the country.

But, as we have explained in the preceding chapter, every church that is *invisible* in its spiritual principles becomes *visible* because of its temporal goods, the management of its property obliging it to submit to the civil laws of the state. Now the law of June 5, 1850, rules all these matters of assuring to a church its patrimony. And according to this law the government of the king was asked to confirm the determination that the property already acquired in Italy by the Free church of Scotland should from then on belong to the United Free church, which had been legally founded abroad and was not contrary to our institutions. And since the Free church ceases to exist in Italy, and there is substituted for it, in all its rights and duties, the United Free church, there is here no passage of property from one entity to another, but we are dealing rather with a simple change of name, consideration of the spiritual contents of the old and new church lying outside the jurisdiction of the Italian law. Therefore the demand of the two Scottish evangelical ministers was just, and the Minister of Justice, Orlando, one of the renewers of the study of our public law, not being able to oppose himself to the government, frankly asked the Council of State for an opinion that would declare that the property legally owned and acquired in Italy by the Free church should be understood to belong to the United Free church of Scotland.

But the minister, according to law, had to obey the decisions of the Council of State, which was less disposed than he to follow new liberal doctrines.

The Council of State denied that it had to deal with a simple change of name, and maintained that the two evangelical ministers were presenting the real and peculiar decree of a foreign judicial authority, the execution of which they were asking in Italy.

The Royal Commission of Arbitration had full powers over the division of the property between the contending parties in Scotland; but in Italy they must submit themselves for a decision, with respect to the real property there found, to a judgment by provisional examination in accordance with Article 941 of our Code of Civil Procedure, by which executive power is given to the decrees of foreign judiciaries by the Court of Appeal in whose jurisdiction they are to be executed, after a judgment by provisional examination has been made by the same court.

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[2] See Appendix No. VII.

> Since the judgment of the English arbitrators cannot of itself be self-executing within the boundaries of our state, because of the extraterritoriality of the sovereign power from which it emanates, the representatives of the United church of Scotland, before addressing themselves to the Minister of Justice, should have procured a judgment by provisional examination in order to obtain from an Italian magistrate a decree of execution of a foreign judgment, which in substance has done no more than assign to the adherents of the two united churches, in proportion to their number, the property which had previously belonged to the Free church alone.

This opinion of the Council of State caused a sorry echo in Scotland, and grieved the minister and myself, who had worked with him for the success of a liberal idea.[3] And since those ministers who owe their position to science and not to parliamentary chance have the happiest stubbornness, Orlando once more consulted the Council of State, observing

> that, as for the judgment by provisional examination, there would be no decree or measure of a foreign judicial authority to which to give execution, while the question was, in substance, to take action to the extent of the Italian law on a measure promulgated under the date of March 11, 1907, by a special English commission established by law with the duty not only of resolving controversies but, like any other administrative agency, of giving positive execution to the law

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[3] "*Inter alia.* The Presbytery having heard from Dr. Gray that he and Dr. Miller had received from Commendatore L. Luzzatti, ex-Minister of Finance, much valuable assistance in their efforts to obtain a Royal Decree authorizing the United Free church to hold in its name property of the Free church, unanimously resolved to place on record the expression of their appreciation of the interest Commendatore Luzzatti has taken in the history of their church and her struggles for religious liberty, and particularly for his sympathetic and intelligent allusion in a recent lecture at the University of Rome, to the crisis which followed her union with the United Presbyterian Church, and they instruct the Clerk to convey to him their most sincere thanks for the efficient and disinterested help he has given to Dr. Miller and Dr. Gray in their endeavors to secure the Royal Decree necessary for registration of the Properties in the church's new name. (Rome, 18th of March, 1908.)"

"Extracted from the *Records of the Presbytery* by Donald Miller, Presbytery Clerk."

[The Universities of Edinburgh and Glasgow also wished to show me their hearty approbation of the work I performed in the controversy between the Scottish churches in Italy, conferring on me an honorary degree. On that occasion (1909), not being able because of my Governmental duties to accept the invitation to go to Scotland, I sent the following telegram to the Lord Rector of the University of Edinburgh: "Infinite thanks. I am in complete spiritual accord with you in the great principles of freedom of science and conscience. I am happy to be alive, because of this honor you have conferred upon

> of August 11, 1905, which had decided sovereignly, against the court's judgment, the known affairs of the Scottish church.

The Council of State was set against the minister; in such firmness the high Council is to be admired even when it is not right. It contended that

> the measure of the Royal Commission of England, by which the ownership of certain property was attributed to one entity more than another, cannot be considered as having an administrative character because it wrought the transformation of the Free church into the United Free church, and brought about the passage of property from one entity to the other; and a royal decree certifying that the property legally owned and acquired in Italy by the Free church of Scotland should be recognized as belonging to the United Free church—or a royal decree taking action on the English arbitration decision of March 11, 1907—would not be sufficient to transfer to the United church the ownership and possession of the property which had been owned and acquired in Italy by the Free church, it being necessary, rather, for the competent Italian judicial authority to make a declaration of execution of the said arbitration decision.

The disagreement between the minister and the Council of State could not have been more open. We now maintain the doctrine that churches do not have to be immutable; that the spirit of organic evolution moves them; that their respective majorities ought to be able, subject to juridical precautions for determining what is clearly their will, to unite with other churches; that the solutions provided by the English law were imbued with the highest justice, and the decisions of the Royal Commission were not appealable verdicts but conclusive and definitive acts. The Italian government should have examined them, recognized them, and not made a new judgment on its own account. And if the judgment by provisional examination of one court of appeal or other had been adverse, what would have become of those properties assigned in Scotland to the United church and here considered as belonging to the Free church? Either it was a question of vain and therefore useless formalities or different decisions were possible, and doubt alone was enough to throw in relief the error of the Council of State.

And the highest praise is given to Minister of Justice Orlando for having brought the controversy to the Cabinet, asking the power to issue the royal decree in accordance with the principles he had maintained against the opinion of the Council of State. The members of the Cabinet were unanimous in sustaining the contention of the minister and issuing the royal decree, subject only to a new examination of all the documents approved by the British government.

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me in the brightest center of the Scottish soul, which is made of humane goodness and the creed of progress."]

And the new examination having officially indicated the correctness of all the inquiries set forth and summed up in my introductory lecture at the University of Rome, the controversy over the Scottish churches was settled.

The free peoples helped, as is their custom, and the measures asked for by the Presbyterian ministers have made possible a new healthy and organic development of the great principle of the freedom of creeds in our country.

Everything changes, everything is refined, elevated, improved, on earth and in heaven, in human and in divine affairs; and public law ought to protect, with its guarantees, this progress, if it wishes to demonstrate, and if it is to succeed in demonstrating truly, the power of the life of the ideal, which develops and is incarnated in reality.

THE SUBLIME LONGING FOR TRUTH AMONG THE PEOPLE OF SCOTLAND [1]

IN ancient Caledonia the meeting of the races (the Celtic and the Anglo-Saxon) did not level their spirits; and the broad, lively quality of the one and the calm, reflective temper of the other were welded together without being toned down or confused, and they rule together in the Scottish soul. Thus we are frequently astounded to see problems of immediate urgency attacked with intense zeal, while at the same time this reflective calm is making possible the tranquil development, and the serene application to the positive requirements of the hour.

That small country, mystically hidden among its valleys, lakes, and superb mountains, great in the spiritual and scientific vicissitudes of humanity, offers the example of an arena where church and state have fought such battles as have not their equal in history; the struggle is progressing now toward a peaceful solution, thanks to the change in the relations between the civil and ecclesiastical authority. The state has finally recognized the right of the church to full spiritual independence and has taken away the obstacles which impeded freedom of action. The high aims for which the Presbyterian clergy of Scotland have fought for more than two hundred years are finally achieved, and now there remains nothing but to gather the scattered battalions on the field of victory.

However, this goal has not been reached without casualties and hardship, and it will be well to cast a glance backward along the path which led, from obstacle to obstacle, to the fields of battle where, in its ascent, freedom has suffered and fought.

And let us remember that it was not a smile from heaven, nor the fertility of the soil, nor commercial wealth, that gave to the Scottish people the eminent place it occupies to-day in the society of civilized nations. From semi-savagery of customs and from ignorance it sprang unexpectedly to greatness, as soon as it could choose for itself the food of the soul (Church of Scotland and its derivatives), and when it had an abundance of the nourishment of the mind (parochial schools and universities).

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[1] I have drawn the material utilized in this essay from a well-arranged and fervent account of the situation of the Scottish churches by the Rev. Mr. Mackinnon, M.A., the distinguished minister of the Presbyterian church of Rome; from the able work, *The Life of Alexander Whyte, D.D.* (Hodder and Stoughton, Ltd., London, 1924), by Mr. George F. Barbour, Ph.D., and from other accurate information of his; and finally, from the brilliant publication *Church Opinion in Scotland* by the venerable Alexander Martin, D.D., Principal of New College, Edinburgh, and from fruitful private conversations. (Author's Note.)

In the two preceding chapters, written in 1905 and 1908, respectively, I have recorded the Scottish controversy spread into all corners of the world wherever a Presbyterian chapel was erected; and I have indicated the part that I took therein, profoundly interested as I was in that struggle for religious freedom and especially in its constitutional aspect. And in 1911, in writing the preface to the German translation of my book *The Freedom of Conscience and Science*, I indicated the possibility that the Church of Scotland, in a constantly growing aspiration toward spiritual freedom, and, to state it frankly, toward administrative independence, should perhaps soon arrive at complete disestablishment.

From those distant days—say, rather, far distant days, since there rise among them so many smoking ruins, so many tombs enclosing the mortal remains of those most noble souls who, in that country, clung to their faith in order to spread the freedom of the church and bring about the union of all the Presbyterian sects of Scotland: the beginning of still greater enterprises—from those days up to 1921, the outwardly visible progress toward disestablishment was not great, but the internal toil, the preparation of the spirit, the contact between the contending parties, was active, constant, and effective. And here there stands forth the venerable, shining figure of the Reverend Alexander Whyte, Minister of Free St. George and Principal of New College of Edinburgh, a humanist who sought to bring the scholars of the 'seventies to "the great epic of the sanctification of the human soul," the constant defender of the Arminians and of all religious freedom. The apostle of absolute tolerance among the Christian churches, he used to repeat the sublime words:

> There is not in all of Christianity a doctrinal difference I would not submit to, so long as it is permitted me to preach the forgiveness of sins and the life eternal . . . and to those who say to me: truth is truth, I say still: love is love; love is the accomplishment of all laws.

Belonging to the Free church, he prepared, directed, and followed the vicissitudes it underwent.

To understand the Scottish ecclesiastical struggle it is necessary to keep in mind that the point of departure is the establishment of the Presbyterian Church of Scotland by the act of William of Orange in 1689. Previous to that England had sought to impose upon Scotland, as on Ireland, the Anglican system. There arose in the two countries those signs of rebellion which, turning back upon England, provoked the fall of the monarchy, the aristocracy, and the church. After the Restoration, the old system was tried again, but with a pitiable effect upon Scotland (the tragic consequences in Ireland are well known), with conflicts, insurrections, upheavals, and crimes, until a wise government realized that it was absurd to maintain an Episcopal church in a Presbyterian country. All the animosities, both of race and of creed, ceased then as if by magic, and the union of the two countries became real and sincere. If England had insisted on obtaining by force a religious unity with Scotland she would never have achieved (as she has not achieved with Ireland) a cordial political unity. "The two countries became one because the churches remained two," the great Macaulay has said, in his essay on the work of Gladstone,[2] and he expressed the same idea in the speech on the Church of Ireland delivered to the Commons on April 23, 1845.

But the Presbyterian church thus established was still too close in time to the persecutions to understand that the guarantee given by the Revolution carried with it also a heavy yoke. And they found this out soon enough—on the act of union of the two Parliaments, the Scottish and the English, when London became the only seat. Presbyterianism saw with anxiety the passage of its authority to a center subject to a foreign influence, but it thought itself sufficiently secure in the "Act of Guaranty." It had moreover been declared that establishment would be observed in future times as a fundamental condition essential to whatsoever treaty of union was to be concluded between the two realms without derogation or alteration of kind.

Instead, only five years later (1712), the British Parliament in London, following English influence, and in the face of grave remonstrances from all sections of the Scottish church, set aside the "Act of Guaranty" and restored the system of lay patronage. Thus there was sown the seed of future discord, a seed which very soon bore fruit. Indeed, Macaulay well says that all the schisms that have torn the Church of Scotland are to be ascribed to the violation of the Treaty of Union.

Patronage was contrary to the Scottish genius. Moreover the church had unfortunately carried with it from the time of the Restoration a considerable number of priests who were quite ready to turn their religious coats rather than lose their stipends; these formed a body determined to submit to a system which proved irritating, however, to the liberal spirits.

The first open rupture came in 1733 with the manifestation of an agitation of the spirit of liberty in the act of four ministers—Erskine, Wilson, Fisher, and Moncrieff—representing different tendencies. Erskine was summoned to justify himself for an independent sermon on spiritual freedom, and on his refusal to submit himself to discipline his office was taken away. This first secession, the fruit of lay patronage, thus created the Associated Synod.

From then on the Church of Scotland began to let fall bits of its body, which grew gradually into separate churches (the congregations grew

[2] *The State in Its Relations with the Church*, 1839.

from four to fifty-four by the end of the century). The separation of the Relief church in 1752 followed. The spirit of controversy feeds factions, and the Church of the Erskines formed, in 1749, two sections with one difference which seems to us now of little enough moment: the exact interpretation of the oath demanded of the burgesses; these two bodies, the *burghers* and the *anti-burghers*, were reunited once more in 1820.

Meanwhile new problems arose on the horizon and others fell off, signalizing controversies now for a long time dead.

In the meantime the state advanced new claims which shadow forth the church's dream of security. The judges declared that the church had no original independent jurisdiction, and that in all its actions, civil and ecclesiastical, the Court of Session and the House of Lords were supreme.

There followed vicissitudes which set the authority of the church in conflict with that of the state; the state used force to annul the decisions of the church, and even went so far as to declare that it alone had the right to name the members of the ecclesiastical courts.

A break was inevitable. On May 18, 1843, almost all the ministers rose during the General Assembly and abandoned the established church, giving up their liberal stipends and parish houses and trusting their maintenance solely to the generosity of the people who followed them; in this way the Free Church of Scotland was founded. It is reckoned that these ministers, four hundred and seventy, gave up an income of about half a million pounds.

And it is once more the voice of the great historian that sets forth in a moving recital the courage of the dissenters: [8]

> There have passed but two years since we beheld with a mixed sense of admiration and pity a spectacle worthy of the best times of the church. Four hundred and seventy ministers gave up their stipends, abandoned their parishes, and went off with their wives and children, trusting only in Providence. Their congregations followed them by the thousands; they listened avidly to the Word of Life in tents, in barns, and on those hills or upon those heaths where the unyielding Presbyterians of the preceding generation had prayed and sung their Psalms, defying the heel of Lauderdale and the sword of Dundee. The rich gave largely; the poor contributed with the very spirit of her who placed two small coins in the treasury of Jerusalem. Meanwhile in all the churches of the great cities, of whole counties, the established clergy preached to empty seats.

The new church prospered; it grew rapidly in numbers; it set up a congregation in every parish in Scotland; it undertook, or it augmented, work beyond the confines of the fatherland.

But from 1876 to 1881 were years of the most acute internal strife. It was no longer a question of the freedom of accomplishing spiritual work without interference by the state—which had been fought for in the struggle of the ten years from 1833 to 1843—but rather of freedom of thought and inquiry within the church, which up to then had maintained the incontestable authority of the sacred books and smothered every attempt to dispute it. The whole people of Scotland was stirred and took part, and the upholder of the new thesis arrogated to himself nothing less than the task of completing the liberating work of the Reformation. Not even Gladstone's heated electoral campaign in Midlothian, to which I refer in the memorial to the great Englishman by the Institute of France (published in my first volume), succeeded in eclipsing for a moment the supreme interest in the religious dispute.

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[8] Macaulay, *Theological Tests in the Scotch Universities*. A speech delivered in the House of Commons on the ninth of July, 1845.

To open new skies to freedom or to intrench one's self behind gray tradition—this was the pressing problem. The fosterer of inveterate ideas, but alive to all the new tendencies, how would the Scottish soul emerge? The clarion of battle was sounded by the article on the Bible in Volume III of the new edition of the *Encyclopædia Britannica,* written by Robertson Smith, a young man thirty years old, who insisted on a reinterpretation of the Bible. The alarm was general. A lover of freedom and culture in the church, Whyte set himself at his side ("no exploration in the field of history or science can undermine the foundations of the Temple"), but he was no less assiduous in the attempt to restore peace through freedom. The long controversy closed in 1881 with the recognition of freedom of discussion within the church, but with condemnation in the particular case of Smith. The reinterpretation of the Bible can come only as the result of deep and hidden evolution of the soul.

We have reached, meanwhile, a period in which the spirit of union begins to manifest itself. In 1847 the United Secession and the Relief churches joined to form the United Presbyterian church with 200,000 members, while the Free church numbered more than 300,000.

Between 1880 and 1890 the idea of the disestablishment of the Church of Scotland (the Presbyterian church of the state) gained ground. And since disestablishment and disendowment provided the most direct means of union with the other churches—that is, of the union of all Scottish Presbyterianism—already in 1885 some fifteen hundred ministers had signed a petition to the Government asking for disestablishment. Groups of proponents of the union assembled to sound out the possibility of a rapprochement between the Church of Scotland and the United Presbyterian Church. From this there sprang no concrete results, but these contacts prepared the ground for future sowing. Also, the subsequent rebirth of the religious spirit among the university students of Edinburgh and Glasgow—a movement which extended to England and reached the United States—was obstructed by the solitude in which the various churches existed; and the need for union grew. "The things which divide are transitory, ephemeral, passing; the things which unite are eternal." [4]

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[4] Whyte.

There passed meanwhile new years of expectancy, of preparation, and of hope, until 1900, a year in which a positive measure was to be accomplished, an important step toward the union of all the churches of Scotland. I refer to the union of the Free church with the United Presbyterian church. I treated this proceeding from the constitutional point of view as long as twenty years ago. Now I wish to add only a few brief considerations which will illuminate the events which have followed in the last twenty years.

In the Free church, at the time of the general disunion in 1700, the principle of establishment (privilege) had been affirmed; this principle had disappeared in the south (the Lowlands), but in the Highlands it had remained a pious and inveterate tradition. Now the Highlands had succeeded in wrecking the negotiations for the union of the Free church with the United Presbyterian church as far back as 1873. Were they not of as much weight in the negotiations now as a quarter of a century before, or were the differences less harsh, the unionist group that started the attack better prepared for combat? Rather, the North resisted still; it failed absolutely to understand the ideal of the South—a failure which was made more profound by linguistic difficulties (the people of the remote valleys and mountains speak Gaelic)—and saw in the voluntary principle of the United Presbyterian church a denial of national religious duty, nay, even treason to the doctrine that Christ is the ruler of the nations. The most fervent apostles of union themselves (Dr. Whyte in the first line), fearing to offend the conscience of the people, abstained from further pressure. Thus the opportunity of uniting the North in one single bond was lost, and when the effort was once more made, the schism of the Highlands was an accomplished fact.

Nevertheless, to union, the goal of so many hopes, they finally came, as I have said, in 1900, and the event was impressive. But the small minority that remained outside did not keep silent, as perhaps was expected, but proclaimed itself the true assembly of the Free church, claimed, in consequence, the entire property, and was, for a while, the successful litigant.[5] All this, and the decisions which followed, the equitable distribution of the properties which until then had belonged to the Free church, between the contending parties, I have explained at length in the preceding study, sketching the high constitutional aspect.

But the thirst for union among the Scottish people was burning; this first sip did not quench it, and a more intimate union, a Christian union, was aimed at as a polar star in the years following 1907. The loftiest spirits opposed religious hatred, fanaticism, each creed's jealousy of its own independence, arguing for a deep good will, a boundless tolerance. Dr. Whyte said in his wise and gentle sermons, which have done the Scottish people so much good:

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[5] Great Britain has experienced many such controversies. How often have not the walls of the House of Commons echoed to theological disputes! Once more the explosion of apparently heavenly ire had the sullying of its source as its only profit. In 1844 there had been an attempt to deprive certain dissentient congregations of Unitarians of property they had enjoyed for a long time, because they no longer professed the religious opinions of those (the Trinitarians) who had acquired it and transmitted it to them. The defense on behalf of the Unitarians (*Dissenters' Chapels Bill*) was based then too on "questions of *meum* and *tuum*", and not on orthodoxy and heterodoxy.

> The first step toward the union of all Christianity will have been taken when we admit and realize that the Greek church is the mother of all of ours, that the Roman church is the first-born child; that our religious existence has reached us through these churches; these have given us the bases of our dogmas, of our faiths, of our catechisms, of our public cult; have given us Christian character and Christian civilization and all that is essential to our salvation. . . . When we shall have humbled ourselves to admit that other churches can teach us things of no small importance, and others share with us our essential principles, and that still others would enrich us greatly if accepted and assimilated; when our spirit shall be so Christian as to admit with joy these thoughts and sentiments, then the dawn of the day of a Christian restoration will have begun to break, at least for us.

The recognition of their inescapable wants, the acceptance of the work of others: to this ideal state the Scottish people must come, their ministers told them, if the greatest union was to be accomplished.

In 1908 the Established Church of Scotland tried to get nearer to the other two parts of the Presbyterian church in order to prepare for union. But obstacles arose. The Established church was willing to endure that jurisdiction of the state over its affairs which the United Free church held incompatible with its principles. At the same time, the two churches had many ideas in common, even that of relations with the state. In fact, Scottish Presbyterianism has never professed the doctrine that civil authority ought virtually to ignore the Christian church.

The leaders of the two churches felt therefore that they had common ground on which they could understand each other, and they began those lengthy negotiations which led to the present situation.

In fact, in 1909 Dr. Whyte received an invitation from the general assembly of the Church of Scotland to enter into discussion about the causes which had brought about the separation. The invitation was accepted in so cordial a manner as to strengthen hopes for the religious future of Scotland. Dr. Whyte, of the United Free church, and Dr. William Mair of Earlston, of the Church of Scotland, who had for so many years nourished the ideal of rapprochement, were to taste the joy of possession of that for which they had so long yearned. A committee was formed of about a hundred members from both parties, composed, in accordance with Presbyterian usage, of ecclesiastics and elders, and these met in convention with Dr. Norman Macleod and Lord Balfour of Burleigh on the one side (Church of Scotland) and Dr. Henderson and Dr. Robson on the other (United Free church). That conference on the union had its first session on November 9, 1909, and all the truly tolerant and far-sighted spirits of Scotland should write that date in letters of gold in the annals of the union, for at that time there still was needed a great faith, a patient and perhaps long expectation. But the vision of ultimate victory shone already in the prophetic glance of those octogenarians of incorrigible faith, in the virile, wrinkled faces of the youngest pastors.

Before the General Assembly, which was to meet in 1912, a milestone had been erected in the memorandum of Lord Sands, the expression of the representatives of the Church of Scotland. This gave concrete form to the need for that spiritual independence which had always been the kernel of the ancient differences, and to the demand for national recognition of religion, the principal dogma of the Church of Scotland. The memorandum also traced the lines for reaching an agreement on these fundamental positions, and indicated how it would be possible to remove the minor divergences and difficulties.

Thus on May 28, 1912, the General Assembly was held, and Dr. Whyte has written about it in a study entitled: *The Union of the Churches of Scotland*, which constitutes the most mature and completest justification of the union. But to reach the "promised land" it was necessary to cross an "insurmountable mountain": the question of endowments; and this rose up still distant and steep.

While Scotland was tending thus toward the union of all the Presbyterian churches, new horizons were opened. In 1910 there took place in Edinburgh the World Missionary Conference, an important meeting of 1200 delegates from every continent; men and women who had worked strenuously in different fields of action gave the impression of a small international brotherhood.[6] But coming down to 1913, other preparatory discussions were held in the Assembly of that year, and everything ended in unanimous agreement. At the same time the private conversations of men and women belonging to different churches tended to continue the promotion of mutual understanding. The last one took place in 1914, and in it the Austrian Baron Friedrich von Hügel developed the position of liberal Catholicism, and interpreted to the Scottish audience the thought of the profoundest German Protestant theologian of the century.

Meanwhile there broke out the universal conflict which darkened so many dreams and arrested many works that had been begun, to focus the minds of all on a new ideal. In those epic years the unionist activity of the religious spirits of Scotland slowed up, often stood still; but if the war caused a halt it perhaps set an example of how minor differences could be overcome to pursue a common, supreme ideal. In fact the spirit of unity grew and the idea now took deep root.

With peace concrete negotiations flourished anew (the ideal spread also outside of Scotland, as is seen in the Lambeth Conference of 1920) and the preparations for uniting the Scottish churches reached in 1921 (with the Church of Scotland Act, of July 28) the great milestone closing the first phase of the noble effort. Dr. Whyte, who had been the determined and fervent apostle of this work, did not see the radiant dawn of that day, for death had called him a few months before "beyond earthly voices," [7] in order, perhaps, that he should invoke tolerance with greater effectiveness from on high among the spirits of his people.

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[6] I had then direct news from the vice president, a distinguished American, who revealed to me the high aims of the convention.

This effort to achieve freedom, and with freedom union, is in Scotland a more urgent need than elsewhere. And if in Canada [8] and in Australia, Congregationalists, Presbyterians, and Methodists are seeking to tighten their ranks, if in Southern India Anglicans and non-Anglicans are getting closer together, why, ask its proponents, should not union succeed in Scotland? "The Church of Christ in Scotland has never resigned itself to the harm done to it by the innumerable breaches in its history, and its sense of unity among all the children of the Reformation has never weakened." But before achieving union there must be prepared, together with spiritual freedom, economic independence, since the religious life must have an independent position; the faith which prays must be the faith which pays and this need is in Scotland, for special reasons, acutely felt. There is not in all Christendom an instance in which pecuniary means are worse applied to religious needs than among the Scots, and the task becomes, consequently, more difficult and burdensome. Taking only the two great churches, the Church of Scotland and the United Free Church, we find that they have, among others, about 200 congregations with less than 50 members each, and 500 congregations with less than 100. These enjoy benefits which would suffice for more numerous congregations, but they do not give up the surplus . . . instead, in the congested districts the workmen bear a burden which in the long run will become unbearable. Thus the appeal to unbelief finds in these districts a fertile field. On the other hand, when in 1900 the United Presbyterian Church fused with the Free church, it was found possible to reduce to half their number 400 stipends and congregational stations, and it is evident that the amount thus saved may be turned to uses which strengthen and nourish religious life.

When, however, the economic side has been arranged, a strong knot will remain to be untied: the precious idea of a state church, of a privileged church, of a national church, all notions antithetical to the Free church. But the knot will untie itself, say the Scottish ecclesiastical authorities, if the common inheritance is recognized and if it is realized that "privilege" has never been a principle but simply a fact. On the other hand, no one denies that Christian precepts should rule the national conscience and govern public actions, even though it is admitted that the relations between church and state, as they exist to-day, have turned out to be a disruptive element.

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[7] With this sweet expression his widow, who had been his wise and faithful coworker, gave me the news.

[8] In Canada union proceeds rather slowly, because of the resistance offered by the anti-unionists and the inevitable difficulties encountered in the task of conciliating three churches. But the policy of union fixed in 1916 at the Assembly of Winnipeg by a large majority is being actively cultivated. Out of 4463 congregations, organizations of creeds, or missionary stations, only 624 have, up to May 7, voted against union. The opponents are unwilling to reconcile themselves to giving up, among other things, a characteristic feature of Presbyterianism: ordination by the presbytery. But even if, in the "United Church of Canada," the ministers will not be finally ordained by the presbytery, it will, after having examined and passed the candidate, recommend him to the next higher court, and he will then be ordained by the imposition of the hands of the presbyters met in assembly. (Alfred Gandier and J. M. Duncan, *The British Weekly*, May 28, 1925). The Anglican church, and, of course, the Roman Catholic, will remain outside of this union.

It is fitting also to note that the law of 1921, proclaiming the spiritual freedom of the Church of Scotland, finds its justification in the fact that the statute of 1592, although it was a charter of Presbyterian independence, could not have prevented the state, in the sixteenth and seventeenth centuries, from placing restrictions on the church; it is true that in the last decade these have in part disappeared, but several still survive, as for example the constitution of the courts of the church, the removal of the buildings of a cult, the division and creation of new parishes, etc. Now, instead, the Church of Scotland is assured, by Article IV of unlimited freedom in its action and organization (if this Article had been in force in 1840 the gravest secession of its history would not have occurred); by Article V of freedom of doctrine; by Article VII it is granted, finally, the right to unite itself with other churches. From now on the church alone, and no other entity, will be the judge of the gospel it is to teach to its members and proclaim to the world. Weighed down instead by the trappings of the past, how could it have fought effectively the battles of the future?

These articles were not suggested, and still less were they imposed, by Parliament, but Parliament recognized "legal articles" which the church had the right to formulate.

The ideal is to build a national church which shall inherit all the good traditions of the past, and maintain the continuity and identity of the Church of Scotland, while interference and control on the part of the state must cease.

The Established church attained, then, its aim of liberation from the state by the law of 1921. This constitutes the summit of that religious freedom for which Scotland has so strenuously fought its many battles. Lord Finlay, upholding in 1921 the Church of Scotland Bill, emphasized the fact that it gave to the church absolute freedom in interpreting its doctrine, saying to the House of Lords: "The power of interpretation may be dangerous and it has been demanded: if the interpretation is erroneous in the eyes of the advocates will the civil courts intervene? I say without hesitation that this law excludes the intervention of the civil courts. It has the effect of removing all civil interference." Lord Haldane is equally explicit: "It is sufficiently clear that the Church of Scotland will have in its constitution unlimited power to determine, in its own courts, free from interference by the state, the doctrine to be taught. No civil court will be able to interfere." This law gave to the church full ecclesiastical autonomy, while taking away the civil character of governmental institutions.

Besides unconditional independence the church acquired through this last law a greater spirituality. A body constituted, organized, and which evolves, by itself, owes nothing to external sources or authority; it is the sole creator of its own inner life. Previously the Church of Scotland had not been able to develop new powers freely; it exercised by permission the powers granted to it. For example, it viewed with pride the prerogative of the independent jurisdiction of its ecclesiastical courts; the judgments there pronounced were definitive, because of the incompetence of the civil authority to intervene; it could not even interfere if the decisions provoked civil consequences. But this jurisdiction was at bottom, the independents objected, a civil grant, and their verdicts represented conclusions reached by virtue of powers conceded by the civil authority. From now on the ecclesiastical jurisdiction will have, instead, a different source: it will be derived solely from the divine Ruler of the church, and the church will face the state as a self-constituted body (under an invisible ruler) like the state.

And we come to the third element, without the elimination of which the union of the historical Church of Scotland would never be possible. I allude to legal privileges. In the times of the Reformation, when it was thought that there could be but one true church, the state was obliged to confer special honors and protection upon it, and to frown upon the others, when it was not a downright case of destroying them, as "synagogues of Satan," or sources of civil disorder. The most conspicuous privilege still held by the Church of Scotland is its control of the theological faculties in the four universities, the last relic of a provision which had placed in its hands the entire educational structure of the country.

But there will be no break with the past, say the Scots; the venerable edifice will continue to rise with the halo of its three and a half centuries of life, dear to an infinite number of hearts. But this united church of the future, will it not, some ask, be still, in some respects, a privileged church? Yes and no, others reply. And I add: the privilege will be spiritual and will no longer constitute an obstacle to the accomplishment of its religious and economic duties. Scotland will have a church at the same time "national" and "free." The national character will be freed from those legal entanglements which made it a branch of state institutions. And when the two great churches are united—descended from the sixteenth century and profoundly rooted as they both are in Scottish life—there will result a communion more intimate, national, and infinitely effective.

The Act of 1921 having provided, then, for the spiritual side, there remains now the regulation of the temporal goods, and the Church of Scotland (Property and Endowment) Bill, which is now before the British

Parliament, tends in this direction. The Church of Scotland, with 756,167 members receives from its historical endowments 400,000 pounds a year; on the other hand, the income derived from the free offerings of its members amounts to 700,000 pounds. The United Free Church, with 534,210 members, has an income of 1,500,000 pounds, a figure which is constantly increasing. The instance of the United Free Church removes, therefore, every fear as to the liberality of the faithful; the future trusts in the generous Scottish people.

Thus we shall shortly witness the fall of the barriers which have divided the churches for so long. The discussion in the two Houses is attended by a worshipful anxiety and not unconnected with economic preoccupations. The plan introduced in January, 1924, by the unionist government, steered through the House of Lords by MacDonald's Cabinet, is now held for confirmation by the conservatives; consequently, the number of its enemies ought to be limited. Its principal purpose is the modification of the legal conditions upon which the church supports the property of its endowments (a kind of land tax), so that those who wish to can redeem it by the payment of a capital sum, and others can continue to pay their quota to the church, but not in a form subject to state control. The patrimony of the Church of Scotland is not a tax, nor a burden of the country, but separate property, the fiduciaries and custodians of which are the landed proprietors. The payment of tithes not constituting a quota in cash, but the passage of a necessarily variable value of one part of the annual harvest, the computation of these obligations has become always more complicated. Moreover with the change and the subdivision of the properties it has become the source of vexatious incidents and disputes. And to anyone who wished to raise a doubt as to the origin of the system of tithes the supporters of the plan would reply that whatever their origin they have never been, either directly or indirectly, the gift or the property of the state. And not even the supplement of about seventeen thousand pounds which the few benefices of the Highlands receive directly from the treasury can be considered the money of the contributors, since it represents but a partial equivalent of the annual value of ecclesiastical properties confiscated in the past by the crown.

Once the union is effected and the state ceases to confer privilege on the Church of Scotland, the chaplainship of the king, the religious services in official connections, would naturally become the function of this new United church. The chaplains of the army and navy would be selected, as before, from the principal religious sects, and, on the occasion of national ceremonies, the clergy of the different churches will probably be invited to take part, as has been done up to now. With regard to the chair of theology held by the Church of Scotland in all the four Scottish universities there has been no discussion whatever, but the Scots tell me that some changes are inevitable.

Perhaps the Scottish universities will become again, as in the past, the subject of lively and lofty discussions. One of the greatest in connection with them took place in 1845. In that year Parliament had approved a law which secularized all the chairs in the universities of Ireland, basing this act on the reasoning that it was useless to institute an inquisition into the religious opinions of persons whose task it was to teach lay studies, and that sectarian education in Ireland had proved an evil. However, soon after, Parliament contradicted itself by refusing to consent to the same request on the part of the liberal Scottish deputation, which wished to obtain the right of admission to the lay faculties of the Scottish universities without the profession of the Presbyterian faith. And here we should remember that the Act of Union between England and Scotland established the rule that in the universities of the latter no one should be able to teach or hold office who did not conform to the cult and the policy of the Established Church of Scotland, which was then the creed of the majority of the Scottish people. But the practice of religious tests had fallen into desuetude for more than a hundred years in those celebrated centers of learning also, and no Parliament had taken the trouble to revive it. But when the great schism occurred, in which the strong branch of the Free church broke away from the Established church, the Parliament of Great Britain wished to set once more in force, and declare inviolable, a forgotten law—and all this in order to punish the dissenters.

Macaulay, the soul of lay saintliness, arose to plead this—as he had so many another—good and liberal cause, and with words of fire he stigmatized the inconsistency of the British Parliament, blaming on it all the secessions which had taken place in Scottish religious life:

> You say to me that this measure acts for the glory of God, the safety of the church, the prosperity of the university. . . . The glory of God! As for that, it is not the first time that the glory of God has served as a pretext for human injustice. . . . As for the flourishing of the university, there is not a corner of Europe where men of learning will not laugh to hear that the fortune of the University of Saint Andrew will be made by the expulsion of Sir David Brewster because of a theological dispute. The professors of Edinburgh know better than this Presbytery how to promote the prosperity of a seat of learning. The academic Senate is almost unanimously in favor of the Bill. . . .

But the heated speech of Macaulay, the arguments of the liberal Scots, did not avail, and the plan was rejected at that time.

How great the effort of a whole people in order to achieve the triumph of true religious freedom!

As soon as the bill which is now before Parliament becomes law, the great Presbyterian schism will begin to be healed—the miraculous effect of liberty. A great part of the Church of Scotland will then be once more united.[9] It will bear, it is true, the scars of battle, but from the struggle of two centuries there will rise a powerful church. Its adult members will number 1,300,000, and its income will approach 3,000,000 pounds. In this National United Free Church of Scotland (a combination of names which used to divide it!) there will be realized the dream of all those daring reformers who died in the desert; but their descendants will enter the promised land, toward which their fathers had turned their glances in order to point out the luminous way.

April, 1925.

The knot has untied itself. Scottish Presbyterianism is free at last from every fetter of the state, now that the Church of Scotland (Property and Endowments) Bill has been passed by Parliament with heartfelt approval. The discussion proceeded in an unusual way. The bill was introduced; it was discussed and amended in the House of Lords; then it was discussed and further amended by the Commons. Consequently when it returned to the upper house it was approved at once, on May 25, after the briefest discussion, by a great majority, and after a few days obtained the royal sanction.

The bill still had its opponents, particularly in the ranks of the Laborites, who maintained that the alteration of the government of the Church of Scotland violated the Act of Security and the Act of Union. If the treaty between the two countries was violated in this respect the

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[9] Of course, this United church of the not distant future will not include all the religious communicants of Scotland. There will rise beside it the Scottish Episcopal church, which is in full communion with the Church of England and has 60,000 communicants. Of the other churches, Principal Martin and Dr. Barbour (unable to determine because of my need for haste the exact number of adherents to each church) give me the number of their respective ministers.

The Church of Scotland has about 1800 ministers; the United Free church about 1700; the Scottish Episcopal church about 500; the Roman Catholic church somewhat more than 600; the smaller Presbyterian groups, which in theology profess a rigidly conservative attitude and have their strength in the remote Highlands, have in all little more than 100 ministers; the Congregationalists perhaps 150, and the Baptists and Methodists as many more.

Further, the same authoritative source informs me that the church which has made the greatest progress recently is probably the Roman Catholic, but adds that this fact is perhaps to be ascribed rather to a movement of population than to conversions. In the mining districts there has been a considerable influx of southern Irishmen and this immigrant population has a higher birth rate than the Scots.

And I learn another less comforting bit of news: the number of non-communicant Scotsmen grows constantly. In fact, in an adult population of three million the number of those enrolled in the various churches amounts to only one and three-quarter million.

But this somewhat pessimistic news is corrected here in Rome by another version. In the Highlands, for example, it seems that the purity of their minds keeps many believers from becoming enrolled members, for fear of not being worthy. Thus the actual enrollments do not take place, perhaps, before forty years of age.

Certainly Scotland has been industrialized very rapidly. More than half the population is restricted to a strip of land of about a hundred kilometers, between Edinburgh, Glasgow, and the Clyde, while the pastoral and agricultural population has decreased. According to my courteous informant this process of rapid concentration has been followed by heavy losses to the church. All the more reason, then, for the church to concentrate its forces, by union, where it faces this growing and urgent need.

Scottish people could also demand back an autonomous Parliament, exclaimed the Labor member MacLean, in a heated address.

But not in vain had this emancipation been dreamed of and prayed for through long decades by strong and chosen spirits of Scotland; not in vain had it been felt by the great majority of that free people. It was therefore destined that they should arrive at this point, and that the spirit of centralization should no longer be able to delay the great event, hailed by veritable hymns of exultation. The *British Weekly* (May 28) affirms that Scotland

> fixes, for the first time in history, ideal relations between Church and State. There will be there no *Erastianism* by which the State controls the Church; no *Hildebrandine* system of mastery of the Church over the State; no voluntary relations in which Church and State must be always divided, as if the touch of the one would contaminate the other . . . but our system of a national Church, *free* and *established*, acknowledged free by the State, but by it established in its spiritual freedom . . . a Free Church, in short, in a Free State.

The ordainers and guardians, these, of such freedom.

As soon as the first step toward the union of Scottish Presbyterianism had been accomplished, the General Assembly of the United Free church, by a crushing majority of 500 votes to 104,[10] decided that, all the obstacles having now been removed, it ought now go ahead and prepare a solid basis for the union. According to ecclesiastical law the decision was sent back to the Presbyters, who will have to sound out all the congregations and all the ecclesiastical sessions and report at the next meeting, on January 31, 1926, if the time has come for entering into negotiations with the Church of Scotland. Thus next May the foundations of the union will be laid; then perhaps three years will be needed to complete the formalities and to decide certain important questions, such as, for example, the relation between the theological seminaries and the Scottish universities. And here it is interesting to note that the discussion of the United Free Church was concluded by Dr. Archibald Henderson (eighty-eight) who remembers the break of 1843!

Within a few years we shall witness, then, the triumph of equalization, of religious freedom within the union, the crowning of long and patient effort, of an ancient aspiration of the Scottish soul.

And that people perpetually in search of the truth, which has already contributed much to the history of free inquiries, will tell the world how it can forget the little differences and resolve the minor problems, besides calming, in an atmosphere of harmony and peace, the religious soul of a people which within its own borders must practice, together with the worship of God, charity to one's neighbor, educating itself in this manner in the love of all humanity.

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[10] In the Assembly of the Church of Scotland the majority was even more decisive, those opposed numbering only seven.

Why should we have doubts about future and greater religious unions, in the face of these Scottish combinations which only a few years ago seemed a distant dream? All the offenses, the ruptures, the persecutions, of the past, are expiated, are laved in the purifying stream of these alliances, and God, in whose name people often divide, unites to-day almost the entire people of Scotland.

Republic of San Marino, July, 1925.

RELIGIOUS FREEDOM AND THE LAW OF GUARANTEES

POLITICAL AND JURIDICAL CONTROVERSIES CONCERNING RELIGIOUS FREEDOM, ESPECIALLY REGARDING ITALY [1]

BEFORE entering into my subject, the political and juridical controversy concerning the relations between church and state, I give sincere thanks to my eminent friend Finocchiaro-Aprile for his cordial words of introduction, and I address warm greetings to my distinguished fellow students of public and civil law.

The controversy to which I allude will last as long as state and church endure. Since the state under different forms will rule the inhabitants of our planet for all time, and since the sentiment of divinity, inextinguishable like that of scientific research, will last as long as humanity, these lofty and arduous problems are destined to occupy the mind of statesmen and jurists and the heart of the people, even more than the mind and the heart of the ecclesiastical authorities.

Every time the attempt was made to solve these problems with laws of privilege or to drown them in blood, they rose again more virulent and harsher than ever.

We all know the long and gloomy periods of religious persecutions initiated by the priestly caste, followed by lay persecutions no less cruel, if of shorter duration.

In the worst period of the French Revolution it was much less difficult to behead the king than to decapitate God; both king and God found in the violence done to them the strength to spring to life anew.

I have tried to demonstrate, with research initiated in my youth, that the idea of religious freedom, like a solitary torch shining over an abandoned altar, has never been—or almost never—extinguished throughout the whole of history. In every age there have been, in large or small numbers, precursors, philosophers, believers, martyrs who suffered and protested, contentedly ready to die for the defense of religious or philosophical freedom. Sometimes, in the gloomiest periods of the Dark Ages, the thread of the redeeming idea was lost, but the idea itself soon reappeared, more beautiful, purer, and inciting to the noblest sacrifice, similar to those tenuous currents which hide in the subterranean darkness to emerge afterwards more vivid than ever.

Constitutional history teaches that all forms of freedom were made fruitful by the blood of those who asserted them. But if the struggle for the conquest of political guarantees has produced civic heroes, that which was undertaken for the triumph of religious independence has created martyrs.

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[1] This address was delivered at the Palace of Justice in Rome in February, 1912.

An inquiry of this nature is truly consoling, because it attests the ideal dignity of human nature. But we must observe at once that religious freedom derives its inspiration and manner from two essentially different expressions. The first has its deep origins in a state of conscience, by the effect of which the free manifestation of the most intimate thoughts is invoked, not only for one's own church but for all religious beliefs.

To hate the foreign gods, to deny the practicability of several creeds existing in one state, to persecute and kill in the name of heaven; all this forms a murderous doctrine, to which ancient Asia—India—opposed another, truly divine, according to which every conscience, reasoning in an inner mysterious dialogue with itself, comes to respect the other consciences. The world is full of celestial germs, blossoming in different forms; but the essence is all perfumed by divinity. The great king who proclaimed these truths and put them into practice, six hundred years before Constantine's edict,[2] manifested to his people his desire that every one should be allowed to cultivate his belief not only in form but in substance as well. To him it seemed that the most deserving of the faithful was the most loyal and the most pure, because faith is the substance of sincerity.

This demonstration, which places religious tolerance under the custody and the guarantee of every creed, and substitutes love for theological hatred, which is expounded in action by the state, presents a formula which some nations are approaching and which is consecrated by the science of public law, but which is very far from obtaining universal consent. This formula signifies the respect that the state owes to all the creeds connected with the sovereignty of the individual conscience.

The other formula is a far less lofty acknowledgment of religious freedom. It proceeds from compromise and temporary agreements which close or suspend the fratricidal conflicts fought in the name of God. It is not then affirmed as the triumph of a pure idea but as a truce of people, tired, exhausted, but not convinced, and still doubting the possibility of a tranquil life in common for people professing different beliefs.

In the constitutional progress of modern states religious freedom is the last to be developed and to become perfect, as is demonstrated by the example of England, where after the French Revolution—which proclaimed the civil and political equality of all men, whatever might be their faith or their unbelief, in a single day of creative enthusiasm—it took nearly all of the nineteenth century to recognize this equality in public life. The Catholics were admitted to the House of Commons only in

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[2] I have given the proof of this assertion in another chapter of this book, in which I disprove Gaston Boissier's assertion, to the effect that Constantine's edict of 313 A.D. is the first edict of tolerance, the principle of religious tolerance officially proclaimed by an emperor.

1828-29; the Jews in 1858; and the rationalists who refused to take an oath in the name of any God, in 1884.

And now, at the time we speak from this chair of liberty, in some states of the North American republic citizens who do not believe in a Supreme Being or in future life are still excluded from public office.[3]

But even if the constitutional principle of religious freedom is proclaimed, how can it be technically explained?

Two principal methods can be noted in the conception and the practice of political liberty; and one of them, really constitutional, had its most limpid expression in Anglo-Saxon usage. I say "had," because the strikes of our days, more cruel and bloody than those of other nations, darken the ancient and glorious nest of orderly freedom.

The other method has its root in ultra-radicalism, vice of so many nations.

The former asks for liberty in order to be able to expose, courageously and without hindrance, men's ideas, while respecting and almost invoking a frank answer from opponents. The other method seizes liberty as an insidious weapon, meant to fight other people's opinions and suppress them with violence. The first method educates and shines with a light of intellect and love in the soul of nations; the ultra-radical system is an aggression which leads to tyranny of ephemeral dictators, of deceiving theocracies, and of indistinct and demoniacal mobs, all things which are equally perverse.

This Jacobin or ultra-radical spirit has one of its most baneful manifestations in the clericalism and anti-clericalism of the Latin countries, and in their continuous and violent conflicts.

Both clericals and anti-clericals believe themselves to be divided by insurmountable barriers, while in France—where the evil seed was born—in Spain, in Portugal, in Italy and in the republics of America, they appear as sinister twins, generated in hate by the same iniquitous mother: intolerance.

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[3] This information is found in the first edition (1888) of Bryce's *American Commonwealth*, which is the most important work on the United States, after de Tocqueville's classic book. I wished to ascertain from the new edition of 1910, when Lord Bryce had been for a few years British ambassador in Washington and was consequently enabled to verify his first impressions, whether these political disabilities for religious reasons were maintained. On p. 764 of Vol. II, in the chapter "The Churches and the Clergy," we read: "Six Southern States exclude from office anyone who denies the existence of a Supreme Being. Beside these six, Pennsylvania and Tennessee pronounce a man ineligible for office who does not believe in God and in a future state of rewards and punishments. Maryland and Arkansas even make such a person incompetent as a juror or a witness. . . ." Silas McBee, who traveled through the entire world with the difficult mission of unifying the Christian churches, refers to a conversation he had in Rome with me, when I taxed the United States with this intolerance, unknown in the Latin countries of Europe (*An Eirenic Itinerary*, 1911, London, Longmans, p. 55). Mr. McBee did not think that these deviations from religious freedom were so heinous as they seemed to me; but he too finds it strange that these laws are allowed to remain on the statute books. Truly if Franklin came back to life he would surely undertake a holy apostolate to make them disappear. Religious freedom cannot be an economic arrangement of several churches but something higher and more disinterested. It is hardly credible that some believer or some agnostic, living in those illiberal states, has not had recourse to the courts, which have the power and the office to annul the effects of unconstitutional laws.

But how can religious freedom be regulated?

The incompetency of the state, or, to put it more clearly, its absolute neutrality in religious and philosophical matters, is now placed beyond every possible question. Therefore not one church but all the churches must be equally free. In the Italian Parliament and in several publications the convenient theory of parallels has been often put forward: state and church (they do not say churches) are two lines which never meet. This could only happen if state and church inhabited two different planets and if other lines did not necessarily come to be interposed and divert the course of the parallels. Churches are not abstract and invisible ideas, and they do not feed only on celestial food. They also seek—often greedily—earthly nourishment.

The higher the prayers of the faithful are raised to heaven from the winged spires of the temples, the wider the base which sinks into the ground. Faith is propounded with exterior forms, hierarchies, property and chattels, contractual rights and obligations, gatherings, associations, regulations which enter and penetrate the domain of secular law in a thousand ways. The celestial parallel gravitates, through intimate attraction, toward the state.

Here arises the classical formula of Cavour, the greatest statesman of the nineteenth century: "A free church in a free state." I have not opposed to this formula, as it has been erroneously affirmed, that of "Free religion in the sovereign state." What I wished to do was only to give a scientific expression to Cavour's precept.

Cavour did not consider the Catholic church as the only one entitled to the enjoyment of liberty, but with broad and genial ideas, borrowed from his greatest Genevan friends—and not from Montalembert, who charges him with the theft of his conception, and dares to call him "the great culprit"—the great Italian statesman took part in the struggle for the emancipation of all the other creeds, expressed in absolute equality, even before the Piedmontese Constitution.

He said: "A free church" because the church of Rome alone represented two important and troublesome problems for the redemption of Italy. The church of Rome alone was the political body religious which opposed the unity of Italy, and prevented Rome from becoming the center of the resurrected nation with the maintenance of temporal power. In Cavour's thought, so clearly and so finely expressed, the free church could not be exonerated from the sovereign laws of the state within which it lived. This is admirably made clear by the examination of the negotiations attempted by that great statesman at the end of 1860 and the beginning of 1861, intended to substitute for temporal dominion spiritual guarantees and material compensations.[4] One of Cavour's representatives, Dr. Pantaleoni, after probing the dispositions of the Pontifical Court, put

[4] See Appendix VIII.

forward some propositions, to which Cavour opposed his remarks. These remarks fully illuminate the inner sense of the famous formula, a free church in a free state, and deserve close examination.[5]

From all this we derive the conclusion that even in a compromise initiated in the most difficult historical period of Italy, when all the nations of Europe took sides against our country in favor of the Pope's temporal power, Cavour was not disposed to sacrifice, even in a small degree, the sovereignty of the state. His thought was in 1860 even more secular, in some essential points, than that which was later developed through a spirit of opportunism. And this induced me to affirm that the formula, "free churches in the sovereign state" expressed Cavour's thought, because two sovereignties cannot exist at the same time in a single state, and all the bodies, political, religious, or of other kind, which exist in the state, must move within its orbit, under the discipline of constitutional law.

The sovereign state has the obligation, in the formula which I uphold, to guarantee the freedom of all beliefs.

But how can this constitutional guarantee be expressed in its application to the churches? Here we have the knotty point of the controversy; one of those controversies which we have asserted to be perpetual.

There are two main types of religious freedom: one is that of the United States, of Ireland, of the canton of Geneva, of England in India Ceylon, and of Japan,[6] and the other represented by the recent ones of France and Portugal.

Both these types claim to have reached the ideal form of separation of church and state, and to have granted full guarantees of freedom to all creeds. But while the Catholic church is satisfied with the religious régime of the United States, and praises that of Ireland and Geneva, she strongly objects to the manner in which the separation has happened in Mexico, in other republics of Latin America, in France and in Portugal, to speak only of the most notable examples.

I have tried to explain in these pages the diversity of the constitutional character of church and state separation in those countries. Even a brief attempt at analysis would be here too long and it will be necessary to proceed by synthesis.

The legislation of the United States, Ireland and Geneva does not proceed from unbelief, but has its origin in faith, which feels the necessity of free expansion in order to get nearer to heaven. In those countries the state does not appear as a business concern, but as a fraternal association kept up by fair dealing, and the free churches are a mutuality of souls. Therefore, while the federal government of the United States abstains, through constitutional mandate, from acknowledging or forbidding the practice of any creed, the single states, with general or particular laws, have tried to accord their sovereignty with the particular exigencies of the creeds, not concerning themselves with the doctrine but the civil consequences of it, and particularly the administration of property. There exist in the American Republic an infinite number of Christian sects,[7] the one hardly distinguished from the other by slight differences. I shall spare you from a comparative examination of them, and you may well pity me who had to make it.

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[5] See Appendix IX.

[6] In the latest census of India no less than eleven different religions are registered among 315 million inhabitants. See an analysis of some of those different creeds of India in the Fifth Congress of Free Christianity and Religious Progress, held in Berlin from the fifth to the tenth of August, 1910. The Proceedings of the Congress were published in London and in Berlin in 1911. The inspiring principle is *Einheit durch Freiheit.* Japan's liberal spirit, a consequence of Buddhism, is thoroughly examined in this book, and I am glad that Professor Monami, a Tokio Unitarian, confirms it in his address on "The Position of Liberal Christianity in Japan" (p. 479, *Proceedings of the Berlin Congress*).

In Great Britain separation will now take place in Wales, in Scotland and finally in England. This is inevitable, as I demonstrate in the preface to the German translation of my book *Liberty of Conscience and of Science.* (See the new chapters on Scotland and Wales.)

A few worshipers separate from their brethren and make up a new creed only because they want to associate a greater or smaller part of free will to the doctrine of predestination. Those believers who were called before the court of justice to answer for acts that they were compelled to accomplish—through the fatality of predestination because they are prisoners of the divine omniscience and omnipotence—will always be inclined to think, even in the United States, that certain judgments pronounced upon them violate the freedom of religion, as the Mormons, for example, believe, whose practice of polygamy has been finally forbidden by law. Still, in spite of this distinction among their numerous Christian sects, the Protestants insist on taxing with excessive subtlety the Catholic catechism.

To go back to the point, we shall mention here the long, violent struggle between the state of New York and the Catholic church on account of the accumulation of property by mortmain, for the control of its administration, which the law entrusted to committees elected by members of the congregation, while the Catholic church claimed that it should be managed by the archbishop or the bishop, whose spiritual character came thus to be confounded with the material administration of property.[8] The conflict finally ended with the peace of 1863, which was principally based on the following compromise: the properties of the Catholic church must not be concentrated under a single ecclesiastical head, but their administration is taken away from trustees elected by the members of the congregation and is entrusted to administrators of ecclesiastical character, who designate two lay trustees who must act in accord with them.

As the Catholic church objected to the collegiate régime of the Protestant communities, the state of New York excluded in her case free election by the worshipers. We see that the tendency of the states of the Union is to legislate according to the desire of the churches, which appears even more clearly in the state of New York law of 1871 for the Greek church. Since the Orthodox Greek church is incorporated by the state, and has its culminating expression in the Czar of Russia [9] the law of 1871 confers the faculty to represent it legally on the Russian ambassador and the Russian consul general.

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[7] Every day a new one arises, like the recent sect to which those belonged who thought the end of the world was near.

[8] All this has been amply treated in other chapters of this book.

From the point of view of public law this legal capacity granted to the Russian Emperor for the administration of the Orthodox church in New York is truly extraordinary, and it expresses the extreme pliancy of a sovereign state in regard to the intrinsic convenience of a religious body. Only reasons of space and the "curb of art" prevent me now from enlarging upon my belief that there was in this case a beginning of state abdication.

In the Genevan law of 1907 the freedom of the churches is guaranteed; the state and the local governing bodies are forbidden to subsidize them in any way. Every church building and other property owned by every creed at the moment of the granting of freedom is left for their use, without any attempt of appropriation in favor of the state. The Catholics who had been unjustly treated before that time, following the Germanic example of the *Kulturkampf*, received opportune reparations.

The different churches are organized and the different creeds practice their cult by virtue of the right of the people to assemble and form associations; the churches obey the rules of the Swiss federal code for the management of their economic affairs; they may acquire juridical entity with all its consequences, and they may constitute foundations, after obtaining the authorization of the Great Council. If France and Portugal had approached the Genevan type of separation in some essential, but not decisive, details, they would have better reconciled the spirit of democracy —which is entitled to victory—with constitutional fairness.

But in Italy the constitutional problem is complicated by the political situation, as proved by article I of the Law of Guarantees, which is an organic law, under the action of which the Apostolic See has repeatedly changed occupant in full independence.

I have shown in my lectures on constitutional law how every time that great Italian minds, from Marsilius of Padua, Dante, Machiavelli, Mazzini and Gioberti to Camillo Cavour tried to attack the problem of the abolition of the Pope's temporal power, the solution was always found in this supreme conclusion: inviolable spiritual mission of the Pope, exercised from Rome.

The Roman Constitutional Assembly, after declaring, at the beginning of 1849, the downfall of the Pope's temporal power, decided under the influence of Mazzini that the Pontiff would have all necessary guarantees of his independence in the exercise of his spiritual power. Filopanti had moved, on February 8, 1849, that all the most convenient, stable and safe guarantees would be given to the Pontiff for the full, free and independent exercise of his spiritual power, even after agreement with other

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[9] This address was delivered in 1912 when the head of the state was also the head of the Russian church.

Catholic nations. But then, as in 1870-71, the accords with other Catholic nations were excluded, for good and solid reasons, and the inviolability of the Pope's supreme spiritual office was properly placed under the trust of the Italian government, as it would have properly been placed in 1849 under the trust of Mazzini and his colleagues in the government of the Roman Republic.[10]

Here I shall stop to summarize my arguments. The modern state turns to all the gods who die and are born again, to all the philosophical systems, and tells them: I guarantee the freedom of your faith and of your dreams, whether you bless me or curse me; I am the judge of the field, not to vouch the truth of one or another opinion, but through a reciprocal respect for all the doctrines, for all the acts that derive from them, contained in the circle of civil sovereignty and in respect for its supreme reasons. But even in the exercise of this sovereignty there are countries like this Italy of ours, which needs superhuman and peculiar patience to render solid and indisputable the tranquil and necessary coexistence of the liberal monarchy and the papacy in Rome.

When Marco Minghetti accompanied, with Visconti-Venosta, King Victor Emmanuel II to Berlin, Bismarck, still agitated by his harsh struggle with the Church of Rome, complained about the Law of Guarantees. That Titan, who seemed to wield the hammer of Thor, said to Minghetti, "Your Law of Guarantees has made the Pope inviolable and unseizable, because he has become only a sovereign spiritual power. When there existed the temporal power a German warship at Civitavecchia would have brought him to milder counsel toward Germany."

Minghetti, who had coöperated so much in the redeeming transformation, dared to answer the prince (because our statesmen were mild as to forms, but courageous in ideas) that this accusation constituted the highest praise for the law which displeased the German chancellor, because they had removed the Pope even from the power of the most powerful government. And when the emperor of Germany, as we know from recent publications, was requested to help in the restoration of the temporal power, which Bismarck, who was reconciled with the Vatican, pointedly and wittily postponed to the proclamation of the Italian Republic, then there is reason to affirm a greatness, both sublime and tragic, in our state, which derives from these appeals and these complaints new and clearer arguments for a strict observance of the law which guarantees the Pope's spiritual sovereignty. This is the strongest and most dignified answer that can be given to those enemies of our country who in vain agitate in foreign countries in order to demand a new protection for a religious independence which everybody wants respected, following the traditions and the teachings of Mazzini, Victor Emmanuel II and Cavour; different expressions of the genius of our race, which is illustrated and summarized in justice and fairness.

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[10] The *Monitore Romano*, official organ of the Roman Republic, of April 9, 1849, published an article inspired by Mazzini's religious soul, on the celebration of Easter. This article would deserve to be read and entirely reproduced as a proof that the members of the Republican Constitutional Assembly made a distinction between religion and the temporal power. The concluding part of the article was as follows: "The more the people are relieved of century-old miseries and the sad inheritance of servitude, the more fervently will they celebrate the Easter festivity, first established when Pharaoh's yoke was thrown down, and sanctified by the Savior of the world in the great passage made by humanity when it was called from symbols to truth, from the cult of matter to that of the spirit, from the law of hatred to that of love. The Triumvirs, with Mazzini at their head, the representatives of the people, the diplomatic body of the friendly states, etc., will attend the solemn Mass of Hallelujah."

RELIGION IN ITALIAN CONSTITUTIONAL LAW [1]

AFTER half a century of incumbency of the Chair of Constitutional Law, having reached that time of life where I can entertain neither hope nor fear from men, I was happy in the belief that one of my oldest and principal demonstrations, that of the lay character of the Italian state, no longer found opposition from the doctrine nor from the interpretation of public jurisprudence.

A state like ours, sprung from the wonderful amalgamation of all the elements attached to law and order—revolutionary if need be, of a revolution that knows when to become conservative; a state which led Italy to Rome under the banner of liberty, and knew there how to solve that most formidable problem of ending the temporal power of the Pope, which for centuries had been hanging over our history and the history of the world; a liberal state which was alien from persecution and did not uselessly disturb the conscience of men; that state offered a new and great gift to Europe. Italy was bringing to the old continent,—improving them in some points,—the doctrines, shining with perennial light and salutary influence, of the country of George Washington. It could be believed that silence on religious freedom would mean—as it means in the United States of America—a common consent obtained by a principle or through prudence.

But in the past few months a gathering of competent, upright and sincere men, held in Milan under the auspices of the *Lettimana Sociale*, the organ of the Popular Union of the Italian Catholics, has again examined these difficult questions. And since I was forced—for reasons of scientific and political loyalty—to contradict them, helped by my faithful friend and former pupil, Senator Moliventi, a controversy has arisen [2] the conclusions of which are summarized in a Venetian newspaper and in a letter by Professor Toniolo of the University of Pisa, a former dear pupil to whom I am bound by a deep affection equaled by my esteem for his learning and uprightness, even if we are divided by religious sentiments.

[1] This was the introductory lecture to the course in Constitutional Law, given at the University of Rome in 1914.

[2] I wrote two articles for the *Corriere della Sera* (see Miscellany) against the proposition made in Milan by the Catholic Congress to make international the guarantees given to the Pope for the exercise of his spiritual office and against the sectarian character still given to the Italian state. Senator Molmenti wrote a notable article in the *Piccolo* newspaper of Trieste. The *Difesa* of Venice, edited by Signor Saccardo answered both articles, and Senator Molmenti replied twice in that newspaper. The controversy was extended to all Catholic publications, and it was serene, befitting the seriousness of the argument.

It seems therefore that we must take up again the old demonstration which will be the principle of our course, *sine ira et studio sicuti longe a causa.*

In the statutes and political acts which mark the passage from an absolute form of government to one of representative monarchy, the guarantees that are most difficult to write down, to obtain, and to effectuate are those which concern freedom of conscience, expounded in the secure practice of the creeds, all equal and equally defended by the sovereignty of the state. We must not therefore wonder if the remains of the old Inquisition are found in constitutional origins, and that they are replaced by a lay inquisition—as in the times of the French Revolution—when violence seeks to extinguish them. There are also, then, human victims, offered not to a jealous and angry God but against that God.

History teaches that the slowest, the most difficult, and the last of the forms of freedom to be rooted in individual consciences is that which sanctions contradiction and the contest of religious and philosophical ideas; and it also teaches that the line which separates apostolate propaganda and proselytism from persecution is so thin as to be almost invisible. When we hope to vanquish those wicked passions, intolerance rises up again, assails us and suddenly comes to dominate us. There is even a feeling of kindness in religious persecutions; the inquisitors, too, were moved by love for their neighbors when they burned alive the heretics to save the souls of the faithful.

The old Piedmontese Constitution, which became the Constitution of the Kingdom of Italy, was born amid these uncertainties and hesitations. The Hamlet-like soul of the generous prince who granted that constitution to his subjects was revealed in that charter, dominated by both the ancient and the new currents. The old current had been predominant even in the historical revolutions of Spain and in the famous Constitution of Cadiz of 1812 which the Piedmontese liberals promulgated in 1821 with the aid of Charles Albert, without even reading it, because they could not find a single copy.

This constitution declared in Article 12: "The religion of the Spanish nation is and shall perpetually be the Roman Apostolic Catholic, the only true one. The nation protects it with wise and just laws, and forbids the exercise of any other cult."

Still, even expressing these thoughts, those apostles of the national idea, dispersed and put out of the way immediately by exile, imprisonment and sentences of death, thought that they were initiating true democracy. And their memory is only absolved by their ignorance of the constitution for which they fought and died.

In 1837 King Charles Albert, enacting a new Civil Code, sanctioned the following three articles, before every other disposition:

Art. 1. The Apostolic Roman Catholic religion is the only religion of the state.

Art. 2. The king is happy to be the protector of the church and to further the observance of its laws in matters pertaining to its province. The higher magistrates shall see that church and state be always in perfect accord, and to this end shall continue to exercise their authority and jurisdiction over ecclesiastical affairs according to custom and reason.

Art. 3. The other creeds at present existing in the state are simply tolerated, according to custom and the special regulations regarding them.

While this was being done, however, the true, the great liberal, spirit of Piedmont was first preparing the ground then bursting forth, especially through the labors of Roberto and Massimo D' Azeglio, Cavour, Brofferio, Sineo and a few other patriots.

Roberto D' Azeglio had prepared in 1847 the admirable petition with which he stirred up the entire Piedmont in favor of the civil and political emancipation of the Waldensians and the Jews. Massimo D' Azeglio wrote his magnanimous pamphlet for the amelioration of the Jews, and furbished his redeeming words as a weapon is furbished that is destined to victory.

Cavour, the greatest and most liberal statesman of the nineteenth century, wrote to his cousin Madame De La Rive, before the constitution was promulgated, on the thirteenth of February, 1848: "*J'espère que notre Charte consacrera le principe de la liberté religieuse. S'il en était autrement, je ne renierai pas ce principe que j'ai professé tout ma vie. . . .*"

The old and the new world, reaction and civilization, were warring around the constitution that was being elaborated.

In the mystic soul of Charles Albert two forces followed one another, as can be seen from all the events of his life, from his speeches and from the consultations that prepared the new charter. The profound respect that he felt for the religion of his ancestors alternated with the fascination of the new ideas, with love for all his subjects, even non-Catholics, who were faithful to the House of Savoy.

How could he preserve the supremacy of Catholicism, how could the dissenters gain the freedom of practicing their creed in the new full equality of civil and political rights? The new constitution bears the imprint of those anxious doubts, and tries to conciliate the contradiction of the two tendencies. Even for Charles Albert, God and People constitute the great solicitude of his regal conscience. For this reason, and before the character of the new state should be settled, even before establishing the succession to the throne according to the Salic Law, he requires that the first article of the new constitution should have all the essential provisions in religious matters contained in the code of 1837, and assert as an absolute precept: "the Apostolic Roman Catholic religion is the only religion of the state. The other creeds are tolerated in conformity with the law."

The king himself asks that the words "the only religion of the state" be reproduced; he absolves by tolerating them, the creeds then existing in Piedmont, which were the Waldensian and the Jewish, excluding all the others, in order not to open the kingdom to heresy. All the citizens enjoy in an equal degree civil and political rights, they can be admitted to civil and military office "except for the exceptions determined by the law." The press shall be free; however the Bibles, the books of liturgy and of prayer cannot be printed without the previous authorization of the bishop. And the archbishops and bishops of the state are placed in the first category of those eligible to the senate.

But there are happy contradictions inserted in that same constitution. King Charles Albert had, even before its promulgation, emancipated the Protestant Waldensians civilly and politically, and in March, 1848, he granted to the citizens of the Hebrew faith all civil rights and the capacity of obtaining academic degrees. With the principle of the equality of all citizens before the law established, this same principle would inevitably go the whole length of the road. With the freedom of assembly established by Article 32 this faculty could not be excluded for religious or irreligious ends. And it is important to note that the form of oaths prescribed in Articles 22, 23 and 49 for the king, the regent, the senators and the deputies did not contain any allusion to religion. Wherefore Camillo Cavour, immediately after the proclamation of the constitution, could write as follows in the *Risorgimento*, a newspaper of Turin:

> The freedom of creeds is not fully recognized, and in this particular the constitution does not satisfy us; but it seems to us that this is more a matter of words than of facts. The emancipation of the Protestants (the Waldensians) has destroyed part of the objections that could be brought forward to Article 1. We do not doubt that the imminent emancipation of the Jews will reduce this article in practice to a simple homage to the Catholic religion, and we heartily approve of such homage.

Meanwhile the Italian revolution, initiated by the acclamations to Pius IX, was subsequently rejected by the Pontiff, and Piedmont remained the only bulwark of the Italian fortunes. This caused the members of Parliament to bring forward bolder interpretations of Article 1 of the constitution, or at least to make declarations and provisions which went beyond it. In fact, since the convocation of the first parliament it was made manifest in the address to the crown that "it was the desire of the Chamber of Deputies that the proclaimed equality of the citizens before the law should be a right and a truth for all without any distinction of religion." And since those liberals were not satisfied with words, what they said in Parliament was embodied in a bill which became a law on the nineteenth of June, 1848, without a single vote against it. This emancipating provision, which satisfied Cavour's initiative, was worded as follows:

> Wishing to remove every doubt regarding the civil and political rights of those citizens who do not profess the Catholic religion,

> the Senate and the Chamber of Deputies have adopted the following clause: We, by virtue of the authority delegated to us (King Charles Albert was at the front and Eugene of Savoy represented him) have ordered: Difference of creed does not form an exception to the enjoyment of civil and political rights and admission to civil and military office.

Even then it was said, to calm the scruples of some timorous consciences—and it has been repeated in the controversy that followed the recent Congress of Milan—that the existing creeds did not cease to be tolerated; that the other creeds, outside the Protestant Waldensian and the Hebrew, could not celebrate divine service because the law of June, 1848, speaks of citizens who do not profess the Catholic religion, but it does not touch at all on the exercise of their cult. The narrowness of this interpretation can be understood, but not justified, when the character of that constitutional provision is inquired into; and when it is compared to European public law, it springs to the mind that it broke the barriers erected by Article 1, and placed Piedmont, and Italy, which happily blossomed through it, at the head of the freest countries. How could it be that those who did not profess the Catholic religion could do everything in the state and even govern it, but they could not practice the rites of their religion?

The comparisons with other states clarify even more the greatness of that provision.

In England, mother of parliaments, those who did not belong to the Anglican creed had been, until the end of the seventeenth century, excluded from public office, from the House of Lords and from the House of Commons, only a few Protestant sects being gradually admitted. Even after the French Revolution the Catholics were not politically emancipated in England until 1829, and not for all the offices of the state. While Piedmont made the condition of all its citizens equal in 1848, with a short law pregnant with so many salutary effects, it was only in 1858 that the Jews were admitted to the House of Commons, and even later to the House of Lords. But if the Protestant members took the oath on the Bible, the Jews on the Old Testament and the Quakers succeeded in being exempted from taking any oath, the free thinkers and agnostics—whose number increased so much in England after Darwin published his book on the Origin of Species—were not allowed to enter Parliament because they refused to take the oaths on the holy books. It took several more years before admitting the agnostics to the elective branch of Parliament, without any religious rite, which happened in 1888. Their oath was expressed as follows: "I solemnly, sincerely and loyally declare and affirm that I shall bear true allegiance to His Majesty the King." They must not only say that but, like the others, they must affix their signature to this form of oath. Therefore there are to-day three different ways of pledging the loyalty of the members of the House of

Commons. Those who swear on the New Testament are the Protestants of every denomination and the Catholics. The Jews take the oath on the Old Testament, and the Quakers and the members of some other sects obey liberally the injunction of the Gospel which is expressed as follows:

> But I say unto you, swear not at all; neither by heaven; for it is God's throne: nor by the earth; for it is His footstool: neither by Jerusalem; for it is the city of the great king. Neither shalt thou swear by thy head, because thou canst not make one hair white or black. But let your communication be, yea, yea; nay, nay: for whatsoever is more than these cometh from evil.

Therefore the Quakers do not swear, nor do they bind themselves in any other way than by simple affirmation. The agnostics and the unbelievers limit themselves to a lay affirmation.[3]

I once asked a distinguished English statesman what was the proportion of these different forms of swearing and affirming in these years, and he answered that the great majority of members took the oath on the Bible and only a small minority avail themselves of the law of 1888.

But even leaving aside the mediæval restrictive laws still existing in the matter of taking an oath in Russia, in Rumania, and in Germany for public office,[4] there are even in the United States—cradle and shining seat of religious freedom—peculiar restrictions, almost entirely unknown, that take heaven as witness and pretext. Vermont and Delaware maintain that every sect ought to maintain some form of religious worship, and Vermont adds that it ought to observe the Lord's Day. Six Southern states exclude from office anyone who denies the existence of a Supreme Being. Pennsylvania and Tennessee pronounce a man ineligible to office who does not believe in God and in a future state of rewards and punishment. Maryland and Arkansas even make such a person incompetent as a juror or a witness.[5]

But this is not enough. In France, in Italy and in other free countries the different churches have no essential office in the registration of births and deaths and in the solemnization of marriage; they only accompany and assist the believers in these solemn acts, without legal registration. It is not so in the United States where, as it is practiced in other Protestant countries, the church performs legal marriages and leads the faithful dead to the burial ground. It is, however, true that in the United States marriages are dissolved with a facility that amounts almost to license, and recalls the worst phases of Imperial Rome.

Religion unites the betrothed, and human law separates them forever with a remarkable facility. In some states of the Union divorce is granted for simple incompatibility of temperament, without first shutting the couple for three days and three nights in a dark chamber, as was required by an old Swiss law.

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[3] The English law of 1888 clearly distinguishes the character of the affirmation of the agnostic from that of the affirmation of the Quaker. The former does not believe, the latter is prevented by his faith from swearing. A Hindu or a Mohammedan who entered the British Parliament would swear by his symbols.

[4] The reader is reminded that this address was delivered in 1914.

[5] Bryce, *The American Commonwealth*, Vol. II, p. 764.

As can be seen from these rapid notes constitutional law enhanced the work accomplished by Piedmont in the first half of the year 1848. And this work continued later with the abolition of the privileged bar of justice for the ecclesiastics and of the right of asylum; which was a legitimate consequence of the unity of justice decreed by Articles 68 and 71 of the constitution. And, with a series of acts, Article 1 becomes really divided into two parts; the first remains a just and dutiful homage to the religion of the great majority of the Italians; the second is elided by successive laws.

There are no longer in Italy, side by side with the dominating creed, tolerated religions restricted to two; but every creed can be freely practiced, and finds in the law the guarantees of the respect due to it, without any previous interference of the state. The latter, if it must interfere in the case of temporal questions, such as the administration of property, etc., fulfills its office with high impartiality.

Faith bursts forth and arises from ideal feelings, but when it is translated into a religion, it touches the earth where it must live. It has, besides moral ideas, material interests which must be regulated by the laws of the state.

But even these assertions, which seem so evident, were contradicted in the recent controversy. Still the changes wrought by the new Penal Code, which bears the name of Giuseppe Zanardelli and was enacted on June 30th, 1889, have such an eloquence, a clearness, that no contention can arise regarding them. There are also other documents on the question, and these we shall examine later.

"The fundamental idea"—the Minister of Justice wrote in his report —"of the new code is to refer to the natural right of freedom the provisions that the Code of 1859 referred to the guarantees sanctioned by the constitution." By such principles the title of Chapter I, Book II, of the Penal Code of 1859, which treated of crimes against the religion of the state in Article 183 and of crimes against the tolerated creeds in Article 188, was replaced by Paragraph II of Title II, which assumed a new and truly constitutional name: Of crimes against the freedom of religions. "Where the principles of liberty and progress reign, all the beliefs that are legitimately professed must find an equal juridical protection by opportune penal sanction." But the words used in Article 135 of the projected law, corresponding to Article 140 of the Penal Code finally enacted, do not entirely mirror the thought of the minister because the sentence was "creeds legally professed in the state." This because there was a desire to guarantee the freedom of the cult, as a natural right and as a consequence of freedom of conscience.

The committees of the Chamber of Deputies and of the Senate agreed in observing that the sentence was susceptible of the doubt that only the creeds admitted by special law should be guaranteed, and it proposed therefore to replace that sentence with another that was finally accepted and which is now in the code: "Creeds admitted *in* the state," and not *by* the state, which was a substantial difference. The Committee of Revision of the final text of the code accepted without observations the modifications proposed by the two Chambers, in order not to give—as was then said—a legal character to the profession of creeds. I have written in other chapters of this book about the juridical vicissitudes of the Free Church of Scotland in Rome, Genoa and Leghorn, under the beneficent influence of these liberal doctrines, when my eminent and dear colleague Professor Orlando was Minister of Justice.

It is not right to destroy, with passionate polemics that have little scientific value, such a great and continuous work of civilization, in which the Latin genius of our race was so splendidly expressed.

We have just witnessed the Constantinian celebrations, which have a high religious, moral, and political signification, as they are the apotheosis of the most absolute freedom of conscience, expressed in the peaceful and well-defended practice of all the creeds. Whether the Edict of Constantine and Lycinius emanates from a new spirit of Christian morality, as Santucci says, or, as Crivellucci affirms, from human sentiment, it still remains the second great constitutional act that is known in the history of religion.

Christianity, oppressed until then, obtained the equality and liberty granted to the pagan creeds. The Edict of Constantine, as has been proved once more by a Catholic review of great moral and scientific value published by the Abbey of Grottaferrata,[6] is not a law of tolerance of other creeds to the advantage of Christianity, but of equality of all creeds. And Santucci errs, as the Catholic review shows, when he says:

> If the Edict of Milan is to be qualified as a law of tolerance, it is not in the sense commonly accepted of a sort of equality of all creeds before the state and of indifference or incompetence of the state toward them. This conception of modern agnostic liberalism (thus is constitutional law qualified!) did not in any way inspire the Edict of Milan, which, on the contrary, placed the Christian religion much higher. . . .

No, no, this is not exact; the edict made no mention of paganism because the latter represented the creed then dominating, and because the purpose was the liberation of Christianity, then under the yoke.

And the Grottaferrata review observes with great sagacity: "That is as if the Italian government, in acceding to a demand for a law permitting the exercise of the Chinese religion, were to add that the free profession of the Catholic religion is permitted!"

The edict is a law of equality and religious freedom, and the church must not repent of having formulated it, and must prefer it to the laws of privilege which, as history teaches, are replaced by violent suppressions and acts of privilege to the contrary. The massacres—such as that of St. Bartholomew and the *dragonnades* of the Catholics against the Protestants—have been nearly invariably followed, through implacable revenge and reactions of human conscience, by the massacres of September and the Jacobin *noyades!*

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[6] It is the review *Roma e l' Oriente* (edited by the Abbey of Grottaferrata).

All those who think—fortunately not a few—that science cannot extinguish faith, who say with the Divine Poet:

> Faith is the substance of the things we hope for,
> And evidence of things that are not seen

and who believe that faith is necessary for the greatness and ideal beauty of life, a torch never to be extinguished while our world lasts, must set about to derive from the great documents of history, not the tyranny of one creed over the others but rather the victorious restoration of equality in liberty in order to give realization to the hopes contained in the two greatest pronouncements of religious emancipation that the world knows, even loftier than those promulgated by the constitutional conventions of the United States, and greater than the declaration of the rights of men and citizens. I am alluding here to some passages of the Indian King Asoka's decrees and to the Edict of Constantine.

The wise king forestalls by several centuries the accord of sincerity with faith, when this profound respect for the religious feeling of individual consciences becomes an affair of the state. Until the time in which this king's edicts were promulgated, the particular God of every people is a national and exterminating God; religion is confused with fatherland. While humanity is not seen outside one's country, outside one's creed, there is only error, which must be destroyed. But the office of the state, according to the Indian king, is narrowed down to arouse two connected sentiments in the heart of the faithful: ardor for one's own creed, respect for the creed of others. This is truly high idealism, and we are distant here from the compromise of tolerance which the states may accept in order to stop slaughter, lest through impotence they destroy one another.

The modern practice of religious freedom has taken its rise from the conflict of churches fighting one another; the Catholics and the Protestants principally were pacified after fierce controversies, because both parties were tired of the struggle. But in mystic India every religious conscience, reasoning in an intimate and mysterious dialogue with itself, rises to veneration for other religious beliefs. The world is full of celestial germs; they flourish in different forms, but their essence is all perfumed by divinity.

Despite all this, we must not take away from the Edict of Constantine and Lycinius what constitutes its ideal greatness, and brings it near the Asiatic edict with the following memorable words:

> *Cum feliciter tam ego Constantinus Augustus quam etiam ego Licinius Augustus apud Mediolanum convenissemus atque universa,*

quæ ad commoda et securitatem publican pertinerent, in tractatu haberemus, hæc inter cætera, quæ videbamus pluribus hominibus profutura, vel in primis ordinanda esse credidimus, quibus divinitatis reverentia continebatur, ut daremus et Christianis et omnibus liberam potestatem sequendi religionem, quam quisque voluisset, quo quicquid (*est*) *divinitatis in sede cælesti, nobis atque omnibus qui sub potestate nostra sunt constituti, placatum ac propitium possit existere.*

Liberty and equality to all the believers of all creeds to placate the divinity hidden in the celestial seat!

Between the appearance in turn of the priestly and ultra-radical inquisitions, all the churches, the great as well as the small, must be persuaded that the only solution which is at the same time fair and necessary is that of liberty and of equality. Outside that there is no salvation. Instead of inciting one creed against another, instead of interpreting liberal laws in a restrictive manner in order to derive self-glorification or arguments of worldly preëminence, we must all work to educate in our conscience the sense of fair play, which grants to God, as well as to men, those guarantees that suppose the beautiful and rich variety of beliefs under the sovereign protection of one state which is incompetent in the essential things of religion, but not atheistic, not unethical, not confessional. How much sorrow, and perhaps how much bloodshed, must the erring human societies still expect before they reach the practice of such holy principles! Meanwhile we shall study constitutional truth to prepare public welfare, keeping up our hopes in its redeeming influence notwithstanding ever-renewed disenchantments and disappointments.

THE ASSEMBLIES OF THE RISORGIMENTO [1]

THE work recently published under the auspices of the Chamber of Deputies is truly an *opus magnum*. It connects the political and constitutional history of the new Italy with the parliaments of 1848-49, which were the years of the bold and holy initiatives. It is a great ideal monument, a worthy contribution to the celebration of our independence and unity.

Signor Montalcini, who has edited this remarkable work, illumines with a powerful, original, and accurate introduction which covers more than six hundred pages, the other fifteen volumes.

The political, constitutional, and parliamentary history of the years 1848-49 causes the unknown or forgotten episodes which were lying in the deep and rich mines of the national archives, and were not even suspected, to revive and pulsate in those new studies.

How did our fathers organize the new free régime?

Was the Piedmontese Constitution, which became the Italian fundamental statute, the best in its technical structure? Will it not be of use to study it now, going back to the sources of the national documents and comparing it with them? Is not a new road open to political studies, a new obligation imposed upon those who teach public law? How can we ignore these precedents of our assemblies, where their *Charta* was discussed, and the most difficult political problems were set for a solution? And if a cruel fate took away from those statutes the benefit of time, was not the same Italian heart beating at Palermo, Naples, Florence, Rome, Venice as well as in Turin? Was it the fault of the inhabitants of the other parts of Italy, if only in Piedmont there was a loyal dynasty that kept faith with sworn freedom?

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[1] Address delivered at the *Accademia dei Lincei* on the twenty-third of April, 1911.

How did those princes and those statesmen prepare themselves in 1848-49 to solve the most difficult constitutional problems, that, for example, of the guarantees of individual liberty? Must such research serve only scientific curiosity, or can it be used for higher and more practical ends?

All these treasures of our glorious past, brought forward to our attention, will serve as a precious guide, as light and counsel in the future reforms of our institutions. I shall present here an example.

The end of the temporal power of the Pope is connected in Italy with two formidable problems, upon the solution of which our political fortune depends in great part. How can full spiritual independence be conferred on Catholicism, the venerated head of which resides in Rome, where he must remain respected and inviolable on his Apostolic See? And how can this full independence be reconciled with religious freedom and freedom of science, both of which must not have limitations nor obstacles in the evolution of creeds and in philosophical research?

The authors of the law of March 13, 1871, on the Prerogatives of the Pontiff and the Holy See and on the Relation of the State with the Church, knew how to conduct the formidable inquiry necessary for the solution of the problems. The law of 1871, the origins of which go back to Marsilius of Padua, to Dante, and to the first great Italian thinkers who wished to separate the spiritual power of the Pope from the temporal power, greatly respecting the former and abolishing the latter, caused the religious papacy on one side and the civil state on the other to reside together in Rome in peace, and is worthy of the ancient Latin wisdom.

The members of the constitutional assembly of 1849 which proclaimed the Roman Republic were faced by the same problem. The Pope having left Rome and the republic being proclaimed, it was asked whether the head of Catholicism should reëstablish his residence in Rome. And if he did, and did not have temporal power, what guarantees could he have for the exercise of his supreme prerogatives?

These were difficult, great and new points to discuss, while the foreign troops were ready to disembark at Civitavecchia: terrible times were those and admirable men!

Such men as Mazzini, Garibaldi, Mamiani, Saffi, Armellini, Saliceti, Filopanti, Hudinot were trying to give an answer to these questions.

"Fling your laws at the people in the battle, as the Sinai law-maker flung at his people the tablets of the law amid the din of tempest," one of them said; and such feverish and eloquent appeals, sincere in spite of their emphasis, were uttered in those memorable sittings of the assembly!

On June 27th, 1849, the debates were opened. They are truly great, and must be read with great care. Those legislators were firmly determined to abolish the temporal lordship of the Pope, but the religious spirit breathed in their soul, averse to both Voltairean mockery and facile deicide fury.[2] The following article was proposed by Grillenzoni: The Catholic religion is the religion of the great majority of the citizens of the Republic.

Saliceti upheld freedom of religion, and expressed the thought that the competition of creeds contributes to and purifies them and prevents true faith from becoming corrupt. The proposal to give in some way the character of a state religion to the Catholic creed was rejected. A few considerations are here pertinent.

The Roman constitution of 1849 ought to be carefully studied even for its wording. The short declarations that begin it, modeled upon the various French constitutions, are clearer and more conclusive than their models. We quote here some of those utterances of fundamental principles, as they were called:

> The Republic considers all nations as sisters, respects every nationality and supports the Italian nationality.
>
> The exercise of civil and political rights does not depend upon religious belief.
>
> The Head of the Catholic church will obtain from the Republic all the guarantees necessary for the independent exercise of his spiritual power.

We are enabled by the publication made by our Parliament, to compare the manner by which the Roman assembly reached the above conclusions with the identical principle evolved later by the Italian law of 1871. On February 8, 1849, Filopanti introduced the following motion:

> The papacy has lost in fact as well as in law the temporal government of the state. All the most convenient, safe, and stable guarantees will be given to the Pope, even in accord with other Catholic nations, for the full, free and independent exercise of his spiritual power.

Filopanti's remarks on these two propositions are brief and generous.

The constitutional assembly of 1849 was faced by the same difficulties as were encountered by Victor Emanuel's ministers in 1870.

Ought the guarantees of the spiritual power of the Pope—substituted for those of the temporal power—to be consolidated by international accords, and could this be done? The answer to the first question was affirmative in Rome in 1849 and in Florence in 1870. But the same jealous sentiment of national independence finally prevailed in Rome in 1849 and in Florence and Rome in 1870-71. Filopanti defended on February 8, 1849, the thesis upheld by Gioberti in 1851 that

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[2] A proclamation signed by the triumvirs Mazzini, Saffi and Armellini is worthy of note (p. 562 of Vol. IV). It was expressive of exuberant patriotism and profound respect for religion. The people are invited to respect the churches.

> the Pope could not be said to be fully independent in the exercise of his spiritual power if he had relations with a single nation, whichever this might be, when he was to receive solely from her the income which he needs for the maintenance of his court and the splendor of religious functions. Then, in order that his independence as a successor of St. Peter be true and not illusory, as it has been in the past, it is necessary that all Catholic nations concur to guarantee this independence.

Deputy Agostini opposed Filopanti's motion, asserting that "the aid of other nations must not be invoked: the independence of the Pope and all that is needed to guarantee the existence of the papacy, will be placed under the protection of the Italian Constituent Assembly."

After a lively debate—which unfortunately for our national history was not reported in the minutes of the proceedings [3]—deputy Armellini submitted the following motion: "The Pope will have all the guarantees needed for his independence in the exercise of his spiritual power."

Armellini's motion was accepted by Filopanti and passed with twenty-two nays. The text of the debate does not mention the reasons for Filopanti's withdrawal of his motion, but it is easy to guess what they were.

I shall stop here after noting once more the remarkable correlation between the hesitancy of 1849 and that which prevailed in 1870-71, and the similarity of the final decisions. The Italian constitutional mind, after more than twenty years, was confronted with the same difficulties and reached the same conclusions. We may rest assured that the Italian Cabinet ministers and the members of Parliament of 1870-71 had not an exact knowledge of the debate in the Roman Assembly of 1849, such as we possess now. But the minds of the patriotic members of the two assemblies were equally dominated by respect for the Catholic religion, the sentiment of the greatness of the Papacy, and the necessity of its permanency in Rome, capital of the Italian state.

I wanted to insist upon this episode of the *Risorgimento* because it clearly shows the great importance of the research initiated by the recent publication, for which we must be grateful to the President of the Chamber of Deputies who first thought of it, and to the eminent compilers whose work is beyond praise.

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[3] The search made by the secretaries of the Chamber of Deputies for the minutes of the debates of the Constituent Assembly remained fruitless. It is known that Mazzini confided to secret committees his patriotic anxiety and inspired the public debates which were held in the Palace of the Chancery, until the Assembly had to take refuge in the Capitol on the 17th of June as a result of the besiegers' bombardment. Perhaps these minutes could be found in the secret archives of the Vatican. If they exist I intend to ask for permission to examine them from Father Ehrle, the eminent and learned librarian of the Vatican.

I intend to illustrate later all the constitutional solutions given to the vital problem of the relations between state and church in the other free assemblies of 1848-49.[4] I am convinced of the necessity of such research, because many Italians know the origins and the vicissitudes of the French Revolution but on account of the lack of documents and the imperfect extent of research they are only imperfectly aware of the events which led to the unity of Italy. Their development was higher and purer, and at any rate is more worthy of the loving care and veneration of a people redeemed by the apostles, the heroes, and the wise legislators of 1848-49, whose names we know much better than their glorious deeds.

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[4] The debate on June 8 and 9, 1848, in the Chamber of Commons of Sicily on the relations between church and state is particularly worthy of note.

SCIENCE AND FAITH IN FREEDOM

The Law of Evolution in Science and Morality [1]

A remarkable piece of news is now announced to the world. It appeared first in the writings of some solitary thinkers, and it seems to have taken hold of the popular imagination. It says that science is sufficient, in its infinite and triumphant progress, to satisfy every aspiration and every hope of mankind. Science, they say, has the virtue of conquering every evil thing in life, of abolishing sorrow or pain, of accumulating the greatest power.

The natural sciences, by their continuous progress and marvelous application, give man dominance over matter. Man has succeeded in mastering nature, over which he had wielded his sovereign scepter. Morality and religion were only sublime hypotheses with which a suffering imagination attempted to explore the grim riddle which darkens the problem of the origin and destiny of mankind. Science is now conquering this sphinx; and mysterious Isis holds no more veils before the all-seeing thinker. Geology and palæontology are revealing the origins of both inorganic and organic matter; and philological palæontology is searching for the first origins of the human mind. The final triumph is already seen by the prophets of science, and a great thinker, Ernest Renan, has just now foreseen a not distant time in which man shall become, in a way, all powerful through the accumulation of knowledge.

In the moral sphere, it is boldly proclaimed that the science of economics will suffice to correct the egotism and exorbitant importance of individual interest; honesty will spring from sagacity, virtue and profit will be one. An eminent economist speaks with great facility of the arts which form customs and the arts which form religion. We must be thankful, indeed, that he has not spoken of the industries and industrial regulations which regulate both custom and religion!

It is obvious that God has in these new systems become one of those words which Bentham declared to be "prejudged." Science has apparently carried out the colossal plan which the giants of mythology, a terrible species of demigods, could not complete. It has attacked the heavens and it has won a memorable victory in the titanic struggle, as we hear from some happy mortals who are initiated in the new Eleusinian mysteries. According to them it is perfectly feasible in our day to give a full explanation of the world, because Olympus is destroyed. A great philosopher has declared, amidst the applause of a learned audience at the Congress of Palermo, that science is now the only surviving divinity in the desert of heaven. This mass of tendencies, doctrines and aspirations has found its powerful synthesis or—as we are wont to say—its philosophy in a great book, unfortunately incomplete, a book which you all undoubtedly know and which has been translated into all the languages of the civilized world. I am alluding to Buckle's work, which introduces in methodical fashion the positivism of history. Bunsen wrote a famous work called *God in History*, and Buckle's book could well be entitled *The Absolute Triumph of Science in History.*

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[1] This paper was read at the *Istituto Veneto di Scienze, Lettere ed Arti* on August 15, 1876, when speaking of scientific idealism seemed like committing a crime against science. To-day the danger lies in going to the opposite extreme.

When a system of ideas, principles and observations permits of philosophical treatment, it offers by that fact alone a proof of its maturity and importance. Philosophy, like religion, resembles that eagle glance that an indefatigable traveler casts from an Alpine summit to the valleys beneath him. Buckle's book belongs to that chosen company; he has gathered with extraordinary patience all the material supplied by the physical sciences, history, statistics and economics, and aims at a single and impressive end, the glorification of knowledge and the nullification of will, virtue and religion. He has examined the importance of the physical and mental laws. The physical laws are those which represent the action of nature upon man; the mental laws represent man's action upon nature. When the mental laws prevail over the physical laws then progress begins, and we see that glorious epic of humanity, which modifies climate and food and transforms the soil and the appearance of nature. Mental laws are of two kinds: moral and intellectual; the former concern will, the latter, intelligence. Progress, in mechanical terminology, is the resultant of the simultaneous action of these two forces. The English philosopher, after reaching the first synthesis, asks himself which of the two forces has a greater influence and a decisive preponderance. He shows how the intellectual laws are capable of continuous development, or—as we say in our day—of perpetual evolution. But the moral laws have no evolution whatever. Every human being starts laboriously on the road of virtue, and he profits but slightly by his predecessors' moral experience. Good deeds, which are the result of will, are not transmitted like accumulated knowledge; they are the fruit of personal improvement, which requires inward and obscure labor and is not found and gathered like the inheritance of knowledge. Moral superiority and excellence have a pleasant aspect and fascinate the multitude; but the effects are less fertile than those of intellectual progress. Goodness extends only to a small group of men, and generally does not go beyond the period of our generation. Human truths are immovable, and mankind has had them for centuries. *Love one another; forgive your enemies. . . .* For thousands of years men have heard these holy aphorisms in the sacred books of all peoples. If our knowledge of morality is not greater to-day than in the days of our distant forebears, and if we note to-day an immense progress over ancient times, there is no doubt in Buckle's mind that progress is connected with intellectual development, which is an accumulation of knowledge and not of virtue. Cuvier said: "However great be the good which is done to men, it is always temporary; but the truths left to them are eternal." Then the people are admonished; morality is not important because it is not *progressive*; civilization emerges principally from intellectual evolution. Buckle applies his theory to modern history and recognizes in France, England, Scotland and Spain two great tendencies of the human mind. One consists of skepticism, restless investigation and freedom of inquiry; the other of tradition and respect for custom, which conserves servility of thought and consecration of theological hierarchies. He thinks that Spain's decadence is caused by the iron discipline of the priestly yoke. If the Spanish Commons had triumphed over the royal authority at Villala in 1521; if the solitary sparks of Protestantism had blazed forth in the sacred fire of Reformation, the power of Spain would not have perished. The progress of civilization is in direct proportion to the skeptical spirit, which is expounded in freedom, and in inverse ratio to habit, which is manifested in protection. The nations which doubt and investigate survive those which accept without inquiry the rites and the existing traditions of the established church. It will not do to disarrange this able tissue of aphorism by interrupting the English philosopher by reference to the history of human actions—spontaneous, sublime, overflowing with faith—which is not less great nor less true than the history of scientific discovery. He will answer you that the actions of men which are determined by their moral feelings and their passions are antagonistic to the feelings and passions of other men; and their effect is elided in the great average of human affairs. According to this peculiar doctrine the safety of life, the sanctity of marriage, the sweetness of filial love, would be canceled or balanced in the great average of human affairs by the murders, adulteries and cruel desertions of children by their parents. And he would assert that from whatever aspect the problem is considered, humanity represents immense brain work unperturbed by the emotions of the heart. Buckle's theory reminds me of those eternal and motionless glaciers which the rays of the sun color but never melt nor pierce.

The refutation of such tendencies and doctrines would exceed the inexorable limits imposed on an academic lecture. But I hope you will permit me to state the principal objections; for it seems to me that in an Institute like ours it is befitting to proclaim the powerlessness of science, as well as its effectiveness, moderating the inordinate pride of these new systems which encourage humanity to worship itself, or dissolve it in infinite nothingness. The Greek world deified beauty, and represented itself by Narcissus, enamored of his own image mirrored in the clear water. Is the modern world then to deify science alone, and to substitute treatises on physics, chemistry, mechanics and economics for the bibles, the poems, the wonders of art and the continuous and living epic which develops and makes eternal the actions of heroes, apostles and saints? Must the only consolation for the laborious analysis of thought be to read the harsh truth and deadly decree of our destiny in the books of Buckle, Renan and Hartmann? According to these writers' recent declarations society has now emerged from its theological and metaphysical phases and has entered the critical and rational stage. Our epoch is mature; it feels the vigor of virility. Man is sufficient unto himself, and the chosen minds wend their way toward the summits of positivist philosophy, persuaded that humanity is perfect in itself, and that it evolves and matures by itself its own God. To temper the melancholy of these conclusions, Doctor Strauss advises reading Goethe, and reveling in the ecstasy caused by one of Beethoven's melodies. The sacred books must remain closed, the redeemers' light extinguished, and in the universal wreck of faith we are left only with the blessings of letters, art and music. Those who know all proclaim these the only consolation for afflicted souls.

In spite of these imperious decrees of exile religious feeling is transformed, purified and perfected; it does not weaken nor become extinguished, and the sacred books fight a glorious battle against all the doctrines which sentence them to oblivion. From this rostrum I now consider the Bible as a human book, radiating sublime morality. But even considered from this aspect it is singular that in spite of the philosophy and exegesis which try to annihilate them, the Scriptures are spreading farther in the world every day. Allow me to present to you some statistical data, both interesting and new, following the usage of the positivist philosophers who are now being studied. At the beginning of the nineteenth century there existed, it seems, only four or five million copies of the Bible, translated into fifty languages. To-day the British Bible Society alone has published seventy-six million copies, and the associations affiliated or in some way connected with the British society have published fifty-five million copies. So that in our century, thanks to a single institution, one hundred and thirty-one million copies of the Holy Scriptures have been distributed. The Bible is now translated into two hundred languages, and if we count dialects the translations amount to two hundred and sixty languages. Thirty languages were for the first time expressed in written form to allow the people to read the sacred word. The British society alone has distributed in the last few years thirty-eight million copies of the Bible among Anglo-Saxon nations. The statistics of the last six years show that in Germany, where positivist philosophy and the *Kulturkampf* predominate, the sale of the Bible has decreased thirteen per cent. In France, after Sedan, it increased thirteen per cent, in Poland thirty-four per cent. In Austria, a million copies translated into thirteen languages were sold in ten years. The eminent traveler and scientist, Bartle Frere, narrates that in the recent visit to India of the heir to the British throne, eleven translations of the Bible into as many Hindu dialects were offered to him; while forty years ago there were only four translations. Bartle Frere tells us that several thousands of Hindus, who profess Christianity, read the Bible and confess that the Scriptures offer the best models of prayers and the highest form of morality. So that, now that we are asked to close and seal the Holy Book, we find that it circulates everywhere over the face of the earth and the sacred word is uttered in all languages.

This weary modern society of ours, in spite of the light of knowledge and the triumphs of natural science and economics, has not yet conquered anxiety and sorrow; and it feels that science alone will not solve the problem of the universe. The inspired word of the Bible, which breaks the silence existing between heaven and earth, is still heard, and still affords peace and hope to oppressed souls.

But let us pass on to other considerations, and put aside this statistical research. Is there any truth in the opinion now accepted with dogmatic rigor by Buckle's school that morality is immovable, exhausted, incapable of evolution, unfit to produce a new discovery? This affirmation seems to us absolutely defective. The first vice of this type of argument lies in the determination of the character of morality, which is not only a doctrine, but essentially a practice, and we must find in that the character of its specific evolution. Let us grant our opponents that the moral ideas have all been manifested, that just as no artist has been able to surpass Phidias or Raphael, no apostle or moralist has improved upon some of Socrates' discourses as interpreted by Plato, or chapter 13 of Paul's epistle to the Corinthians. But the moral idea must be made concrete by action; and in this we find the form and substance of its infinite progress. The evolution of virtue depends on the different degrees of intensity with which the same moral sentiments are cultivated and practiced. An important history could be woven around the theme of the progress of moral ideas in nations and institutions. An eminent English philosopher, Lecky, noted in his *History of Morals in Europe* the successive developments of human kindness, the relative value and preponderance of each group of virtues in relation to the conditions of civilization. The first elements of customs remain stable and unchanged; but there exists a perpetual change in the type of morality chosen, the dominant rule and the relative evaluation associated with every sort of virtue. Buckle's idea that every man must start again on his own account the labor of virtue, while knowledge is accumulated and transmitted to future generations, is only partly true. There is no doubt that to-day a college student knows more about physics than Galileo and that he finds condensed in a few pages the knowledge of illustrious generations of naturalists. But of virtue we can say with Epicharmus "that the gods offer us all the favors at the cost of labor." In spite of the good that others may have done before us, in spite of the previous sum of good deeds accomplished, virtue is not becoming easier to practice. Merit is to-day won at exactly the same price as it was in the beginning of the world; the obligation to act only with good intent requires the same sacrifices and the same efforts, and the moral value of our actions must be proportioned to the degree of these sacrifices and efforts without any advantage for those who came later in life. But it cannot be denied that there exists in families and nations the habit of doing good, as does that of following the truth, and that such qualities are accumulated and transmitted, like those of scientific knowledge.

Let us compare, for instance, the people of Holland with the people of Spain, to follow Buckle's example. The former have inherited from their national history the virile instinct of struggle against the raging elements of nature, and by dint of discipline, foresight and sacrifice the Dutch have victoriously repeated to the sea the divine words, "Thou shalt not go beyond." Their religious sentiment, deep and sincere, immune from every stain of superstition, blossomed in the Reformation, educating a nation accustomed to despise death for the triumph of its freedom and faith. The people of the Netherlands grew, in the struggle against the sea and against the Inquisition, more vigorous than the furious elements. The sacred flame of these virtues was transmitted from generation to generation, and the virtues themselves are now practiced without labor and remind one of the spontaneousness with which the lily of the valley grows and sends out its virginal perfume. The practice of virtue, which would seem very difficult to another people, becomes easy for this nation, and in this way they formed for themselves a moral conscience which has become, like the climate and the aspect of nature and the gift of knowledge, a common and glorious patrimony of an entire race.

On the other hand, we find the Spaniards expelling the Moors and the Jews, who had set an example of methodical culture and skilled irrigation of fields, and who, with moral abdication, gave themselves over to the power of kings and priests.[2] Thus it happened that the glorious Spanish nation of cavaliers gradually degenerated, and even to-day, yoked as they are to the habits of the past, the Spaniards find it hard to educate themselves to that temperance in civic virtue which seems a pleasant and glad habit to the inhabitants of the Netherlands. The latter find their greatness and glory in the past, the former find there only decadence. There is, therefore, in morals as well as in knowledge, a certain accumulation of forces which is transmitted and developed from one generation to another.

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[2] This I said fifty years ago. And now a great Spanish writer, Vicente Blasco Ibañez, who is certainly not aware of my old opinion, repeats in his book *La Catedral* the same judgment upon the expulsion of the Moors and the Jews: " . . . Decadence begins with the quartering of the robust young body of Arabic, Judaic and Christian Spain. . . . Science extinguishes its lamp in the mosque and in the synagogue and hides her books. . . . Then comes a new calamity, the expulsion of the Spanish Jews, who were so pervaded with the spirit of this country, and loved it so much, that even to-day, after four centuries, scattered on the banks of the Danube and the shores of the Bosphorus, they are Spaniards, and bewail the loss of their fatherland in the old Castilian tongue:

Perdimos la bella Sión,
Perdimos también España,
Nido de consolación.

"That people which had given to the learning of the Middle Ages a Maimonides, and was the support of Spanish industry and commerce, left our country in a body. Spain, deceived by her extraordinary vitality, opened her veins to satisfy the rising fanaticism. . . . *Spanish* Spain, without foreign admixture, is the Spain of the Christians mixed with the Arabs, the Moors and the Jews, the Spain of religious tolerance, of industrial and agricultural progress, of free municipalities; and this Spain dies under the Catholic kings. What comes afterwards is a Teutonic and Flemish Spain, converted into a Germanic colony. . . . Charles V and Philip II ended by killing the ancient religious character of Spain, tolerant and cultivated through continuous contact with Mohammedanism and Judaism, and that Spanish church whose priests lived in peace with the *alfaqué* and the rabbi, and that chastised morally those who disturbed the cult of the unfaithful. Religious intolerance, which the foreign historians believe to be a spontaneous product of our soil, was imported into Spain by Germanic cæsarism. . . . The departure of the Jews coincides with the beginning of the depopulation of Spain, determined also by other causes, which reduced in two hundred years the population from thirty to seven millions."

Morals possess also a peculiar evolution of their own, which does not consist in novelty of ideas but in the manner in which they are announced and in the effect obtained. Here we find their true greatness and here they rise to the sublimity of epics. The apostles, the saints, the great philosophers, are the exalted painters and sculptors of virtue. They give it a clarity, a perspicuity, a geniality, a charm, which kindles and fills with admirable ardor the most hardened conscience. Their words and their writings become eternal formulas, which renew in future generations the effect experienced by those who had the incomparable good fortune to see and hear them.

Before Raphael's great picture of the Transfiguration the mind of the beholder is elevated, transfigured and transubstantiated, contemplates new horizons, is ineffably thrilled; and for an instant the beholder himself is transformed into Raphael, because he understands him. This is the virtue of great human types. In every sacred book, in every writing of practical philosophy, charity is extolled, but it was left to the two sublime poets of morals to set forth its principles with incomparably effective sentiments and words: "Take heed that ye do not your alms before men; otherwise ye have no reward of your Father which is in Heaven." And the apostle says: "And though I bestow all my goods to feed the poor, and though I give my body to be burned, and have not charity, it profiteth me nothing."

By charity he means that disposition of the mind which desires goodness, and works for it, without hope of human or divine reward. And he continues: "Though I speak with the tongues of men and angels, and have not charity, I am become as sounding brass or tinkling cymbal. And, though I have all faith, so that I could move mountains, and have not charity, I am nothing."

Truly, reading these flawless words, we must confess that the saintly philosopher's thesis is more complete than that expounded by Buckle.

It is therefore made clear that even morals possess a specific evolution, distinct from that of science. But, to face Buckle's thesis even more directly, it does not seem difficult to me to demonstrate that the moral element has a considerable effect upon both the civil and the political constitution of human society and their scientific development. The great historical periods, those which release the spark of fruitful innovations and decisive progress, are often moments of virtue and not of science; spontaneous intuitions and actions of the heart, of will and character, and not elaborate reflections of the mind. National epics, religions, Roman law, which is the ideal type of justice, and the British constitution, which is the ideal type of political freedom, are all moral ideas which arise spontaneously from the unconscious conscience of chosen men, develop and become concrete in habits and institutions before the poets, the redeemers, the jurists and the publicists come to translate them into concrete forms of art and science. The same thing happens in the case of languages; the linguistic intuition of the people precedes the process of philology, and so language comes before grammar. If you examine carefully the history of national redemptions, such as the expulsion of the Stuarts from England, the revolt in the Netherlands, the emancipation of the American colonies, the night of August 4, 1789, in France, you will see that those glorious protests of the human spirit, without which modern nations and the flower of present civilization would not exist, represent the luminous moments of conscience, which is inspired by unusual and unknown forces, and is affirmed with immortal declarations and actions which precede and prepare for science, and which science will never be able to interpret. No historian has known how to tell us entirely the secret and intimate reasons which mark these admirable beginnings of nations, just as no professor of æsthetics can make clear the effects of a picture by Raphael or some cantos of Virgil. What becomes of analysis, philosophy and human science in the face of these creations of new forces, which nobody explains and which burst forth from the conscience of the afflicted and the purified?

Sometimes these vindications of a people, these exaltations of the oppressed, these epics of new religions, the victory of Buddhism over Brahmanism, of Christianity over paganism, of free belief over the Inquisition, mark a conflict between science and conscience. Sublime ignorance is victor over learned pharisaism and prepares the glory of a new age. The Roman world had the philosophy of the Alexandrian school and of Stoicism, the science of the Orient, of Greece and of Rome, the splendor of art, literature and monuments, incomparable wisdom of legislation and administration; and then a few unknown fishermen supplied with a simple and great idea—the equality of men before God—eclipsed all that glory and illuminated the world with a new civilization.

Coming down from this vast historical synthesis to humbler considerations, we find in our modern society a narrow tendency which becomes at times even brutal, to deify knowledge and make salvation and hope depend on it alone. It appears clear, however, that scientific investigation which is not accomplished by morality may result in unfortunate developments and give rise to a new sort of vice, the vice of scientific egoism.

The propensity to disassociate knowledge from morality, and instruction from education, is manifest in some modern scholastic systems. The populace, which is only now rising from age-long oppression, is rightly offered a compulsory and lay primary education; and we are apt to extol the future wonders of civilized nations, in which every one will possess the elementary notions of knowledge. There is no doubt that we must all contribute with our labor, and sacrifice to this truly democratic end, invoking the imperative precept of the law, but the problem presented in this manner is incomplete. It may satisfy the followers of Buckle's doctrines, but not those who consider the moral element as the essence of every sound culture. Instruction is a power, a formidable instrument; but to what end will it be applied? That depends on the education and on the character of those who possess it. Reading, writing and arithmetic may be used for a good end or for a new kind of crime. An illiterate man does not write a Divine Comedy, but he does not forge false documents. Madame de Staël said with concise eloquence: "The progress of science renders the progress of morality necessary, for when we increase the power of man we must strengthen the curb which prevents him from abusing that power." We all know that the workingmen of Paris, who were ready to destroy by fire an eternal city, knew how to adorn their speeches with eloquent sentences; many of them were writers and orators of no mean merit. But who would not prefer to them the uncouth and robust peasant who leads the yoked oxen to the soil to be ploughed? What would be ideal is the association of the culture of the heart to that of the mind: *Lucere et ardere perfectum est*, said St. Bernard. It is only in this manner that, notwithstanding the natural difference and disparity of knowledge in the various classes of citizens, the common property of some moral ideas and hallowed habits creates a national unity and the unity of mankind. Such is the solidarity that connects genius and ignorance, poverty and riches. All cannot understand the reasons for the dispositions of heaven, but all find in the heaven of their souls love and hope, which are interpreted in the same way in the common language of moral sentiment.

Should we wish to demonstrate from every aspect the insufficiency of the doctrine that we are now examining, there would be no end to our discussion. But, since Buckle wants to test its exactness by its application in the great modern states, I may at least be permitted to follow him in this practical field. The bias of civilized communities toward democracy is evident. Equality before the law pushes them inevitably to political equality. Sooner or later universal suffrage will be a universal law.[3] The new democracies may assume two different forms, which can be presented to our imagination with elements supplied by history. Both forms of democracy have at their disposal the conquered forces of nature; the telegraph and railroads condense time and space. Compulsory primary education is diffused everywhere by precept of law, which little by little is changed into habit. Every one participates in political sovereignty. A carpenter may become the head of the state, a tailor can command an army. The power which originates in knowledge is accumulated in equal measure, and with the same contempt for the violent oppositions of nature the fury of the rivers is tamed, bridges are thrown over abysses, isthmuses are cut, continents brought near to one another, and capital is made productive. Political economy, chemistry, physics, mechanics, display their proud power, and these young democracies, full of exuberant vitality and intoxicated with vanity and pride, lay claim to almost infinite power. Progress achieves its full and triumphant scientific evolution. But behold the different pathways which they follow! One of them is corroded by envy; the poor, the laboring masses, the ignorant, despise and hate the wealth of material and moral treasures accumulated by some classes of citizens. They possess nothing in terms of wealth and science, but they have numbers at their disposal, that is to say, they can become preponderant in the commonwealth. A few tribunes notice this disposition; men as a rule wretched and ambitious, who cannot prevail by the splendor of genius and praiseworthy actions, but who know how to flatter popular passions. They are unaware of the noble and generous side of human nature; but they know the wicked side. They put the restless mobs under discipline; they promise prizes unembittered by labor, and they cause themselves to be raised to places of command. All office being elective, they succeed in placing all the powers of the government into their hands and those of their accomplices. Universal suffrage blindly organized has become a machine which moves according to the will of a few men, sometimes of a single man. They bribe, cheat, steal, defile and pollute everything in the name of democracy.

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[3] This early prediction has become true.

Some timid voice may raise a protest and it is at once stifled; sonorous and odious phrases are invented with which to abuse the adversaries, and if by the effect of the popular action which marks democracy the faithless and corrupt administrator is brought to justice he is quickly acquitted. Then there is unbound rejoicing in the field of the ruling politicians; the honest opponents do not dare to show their faces in public and they feel humiliated and discouraged. A democracy of this kind is the worst kind of tyranny; and all this is not a dream of my brain. Just what I have said went on for years in New York with the rule of the famous, or infamous, Tammany ring. And we may add that even in that place and that period the schools were filled with pupils, the chemical laboratories continued their patient research, and Professors Walker and Bowen went on delivering their remarkable lectures on the science of economics. All was then in accord with the divinity of science. However, before the disgusting spectacle offered by the American metropolis Horace Mann, one of the most sincere and liberal minds in the United States, could say:

> Our institutions offer facility and opportunity to the wicked similar to those offered by phosphorus and matches to the incendiary. Just as chemistry has caused progression from the ancient art of rubbing together two pieces of wood to the advantage of the criminal who intends to commit arson, so did our institutions aid wicked men who are left without the curb of moral principles. Universal suffrage has realized equality of rights, and only the whim of the mob separates equality of rights from absolute equality.

Truly, where universal suffrage rules, character and virtue must necessarily be elevated, or else calamity and ruin will also be universal.

This picture of corrupt democracy offers the most diverse aspects. From the New York Tammany ring we may pass to the *Commune* of Paris and Lyons, which represent another pathological variety; and I shall spare my hearers other examples from Spain and Greece.

Let us now pass from this shameful spectacle to another form of democracy, toward which England is progressing by slow and sure evolution. There everything has its principal foundation in the quality of the character that marks that great people. Germany represents profound, mature, reflection, at times almost Buddhistic; France has the mobility and intuition of talent; England practices the cult of will power and character. From this cult she derives her faith in great reforms, in temperance, in respect for moral and intellectual superiority, honesty in controversy, progress associated with order, science and liberty which depend upon God and morality. Of course, there are also in England envious demagogues, bitter struggles between capital and labor, and all the ignoble passions that afflict humanity. But all this is kept within bounds and repressed in the iron circle of habits and institutions. The moral, scientific and political evolution alleviates those sufferings that can be palliated by progress, and without invoking the severity of the law public conscience kills with contempt the crazy reformers, the nefarious demagogues and the somnambulists of politics. It seems to me that no statesman has better embodied these admirable qualities of English democracy than Edmund Burke. It was in 1791; the French Revolution could no longer be held within the dikes of ideas and aspirations which the glorious night of August fourth and Mirabeau had planted around it, and was bent on overthrowing the monarchy and hurling the head of a king as a challenge to Europe. The government of France was to be taken away from the middle class and given to the populace. From Mirabeau they descended to Marat and Robespierre, going over the usual road of the Latin democracies. The Reverend Dr. Price, known only through Burke's glorious refutation, attempted to praise in London the French democracy of that time, which was not in accord with the religious, moral and liberal instincts of the English people. Burke answered with two letters in which he expressed his dislike of the abstract principles of the new revolutionaries of France, and he endeavored to expose the vitiated root of these principles. Dr. Price's first maxim was that the people have the right to select the kings who are to govern them. Burke answers him by demonstrating with examples taken from the history of England, the danger of these anarchical proclamations, as he calls them, and finally he remarks that England, instead of believing herself authorized to appoint her kings by election, has made efforts, after driving the Stuart monarchs out, to found even the right of the new dynasty upon heredity. The second principle asserted by Dr. Price was that the people have the right to dethrone their sovereign. Burke points out the rashness of these new political dogmas which the loyal conscience of the Englishmen cannot accept. The tranquillity of human society is offended and disturbed when the minds of the people are trained to these premature desertions. And here the great English orator and statesman elucidates masterfully the office of the responsible ministers of a constitutional monarchy, which consents to the immutability of the sovereign through fluctuations in the national will. The ideas which Edmund Burke expounded in 1791 have brought peace and prosperity to England, and France, which discovered the new metaphysical formulas of freedom, has changed her constitution fifteen times in eighty-seven years, so that when an Englishman asked a Paris bookseller for a copy of the French constitution, he was told that the shop did not deal in periodical publications.[4] The English people, said Burke, are fortunate enough not to agitate these abstract theories about making and unmaking a king. In the unwritten constitution which every Englishman keeps engraved upon his heart, and which is transmitted by heredity like the paternal heritage, there are both the rights of the people and the rights of the crown, which are reciprocally respected. France should have proceeded in this way, reforming, and not destroying. We English destroy what we cannot preserve, you French preserve what you cannot destroy.

Burke tells of his dislike for the French nobility, frivolous, gossipy, hated by the common people and currying favor with the king. And he is proud to recall—while he does not belong to the nobility himself—the English nobles who in 1215 compelled King John Lackland to grant Magna Charta. *Ista sunt capitula, quæ barones petunt et rex Johannes concedit, signata sigillo domini regis.* But when he comes to consider how Philippe Egalité and all those dukes and marquises bow before the Parisian mobs he cannot refrain from showing his disgust, and the spectacle of those noblemen who abjure their dignity before the demagogues nauseates him. The English nobility respects the rights of the commoners, but claims respect for its own, and it constitutes a true succession of august dynasties of statesmen.

Dr. Price extols the principle of equality established in France, and tries to show with sonorous discourse that all men are equal and have the same aptitude for any political office. Burke admits and glorifies civil equality, but persists in believing that Pitt, educated in the great traditions of his house in the exercise of political power, has a greater aptitude and better qualifications than a cobbler, or than Dr. Price himself.

He opposes universal suffrage, and studies the manner in which the right to vote developed in England, which exercise he hopes will gradually improve, according to the real desires of the people and not according to their hypothetical aspirations. The constitution of a state is not for him a problem in arithmetic, and he does not think that the will of the majority is always in accordance with the interests of that same majority. Although he loves freedom more than life he does not feel that he can congratulate France on her revolutionary convulsions, which are leading her to ruin. He sees clearly that Paris will impose itself upon the rest of France and will precipitate from riot to riot into anarchy and cæsarism. He opposes the thesis of continuous opposition to the government, the feverish excitement of the Clubs, and bursts forth with this wild but vigorous sentence: "A nation cannot take periodically strong doses of bichloride of mercury and swallow cantharides in order to arouse herself to the love of liberty."

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[4] Reproducing the text of this address after forty-nine years—and still believing in what I affirmed then—I must acknowledge that French democracy has made considerable progress, and is now greatly improved.

The Reverend Dr. Price, who saw the triumph of the French Revolution, applied to himself the following words: *Nunc dimittis servum tuum, domine, secundum verbum tuum in pace, quia viderunt oculi mei salutare tuum.* Burke protests with vehement and magnificent eloquence, and expresses his astonishment at the spectacle of an Englishman and a minister of the Gospel who dares to desecrate the sublime and mystical ecstasy of those sacred words by applying them to the orgy of the demagogues who were triumphing in Paris. And from this he draws arguments for his favorite thesis that virtue and the spirit of religion are more necessary in a democracy than in a monarchy. In spite of being a Protestant, he rises up to defend the priests imprisoned, massacred, deprived of their stipends, and the outburst of atheism seems to him the most shocking commentary and the most terrible judgment on the French Revolution.

Thus reasoned Edmund Burke, the greatest orator in England, at a time in which such men as Pitt, Fox and Sheridan thundered from the English rostrum: the noble and courageous liberal who had spoken against the irresponsibility of the civil list, against the prodigality of the court, against the treatment inflicted on the American colonies, against the predatory iniquities committed by the proconsuls of the East India Company, which would confiscate a territory when it was needed to complete the dividend to be distributed among its members. When Warren Hastings notices that he needs two million pounds for the balancing of the company's budget, he steals them from an allied prince. Burke, Fox and Sheridan moved to impeach him, and it was then that Burke's eloquence rose to its greatest heights, defending the absent Hindus against a brilliant but unprincipled Englishman. Tacitus' words in praise of the greatest orator were then repeated for Burke's eloquence: *Magna eloquentia sicut flamma materia alitur et motibus excitatur, atque urendo clarescit.* Such is the man whose principal utterances we have referred to, such is the type of those great democrats who were to consolidate freedom, reform suffrage, liberate the black slaves of the colonies and promote the present greatness of England. English freedom does not know, as in France, in Spain and in Latin America, the servile violence of revolt, the sophistry of the jurists, the philosophical theories of the proclamations of the rights of man; but it is alive, innate, instinctive, like the forces of nature in its organic manifestations. It is composed of rational homage to the law and to the men voluntarily chosen as leaders, of moral excellence which refines political honesty, duty, spirit of sacrifice and sincerity, all tending to the realization of great ideas. In corrupt democracies men look for a principle in order to acquire popularity; in a sound democracy they dedicate themselves to a principle that dominates their souls. In the former we find the type of political actors and comedians, in the latter that of the apostles and political heroes.

In my opinion, these historical comparisons are more conclusive than Buckle's assertions, and by them the moral element receives its due in the political order and the civil prosperity of modern nations.

In taking leave of you I wish to give you the happy assurance that scientific elements are not the only ones which make up human happiness. The cult of family, honor and honesty are not, fortunately for us, vain words. The most vital problems of the people remain those based on morals; they are not to be solved by scientific research but their solution is to be derived from higher origins. Scientists and literary men are not the only factors of civilization; courage, loyalty, character, are still the hidden forces which maintain the balance of mankind. To-day as in the past noble souls, thirsting for justice, eager for charity, will not only inherit the kingdom of heaven but will maintain happy and safe the kingdom of the earth. The chaste, pure, generous souls may be consoled and tranquil. The arid and positivistic systems of modern philosophies are not entirely true, and, just as they have not yet succeeded in freeing God from the eternal labor of creation, they will not succeed in freeing humanity from the fruitful labor of good works and mercy.

MORAL ELEMENTS IN PROGRESS ACCORDING TO BUCKLE'S DOCTRINE

In philosophiæ sinu perfugium
atque solatium quæramus. . . .

A SERIOUS objection, expressed in temperate manner, as is fit and proper for such lofty arguments, was made to my address at the *Istituto Veneto* about "The Law of Evolution in Science and Morality." I am told of my error in having imperfectly understood Buckle's great system, by which the English writer never intended to deny the importance of ethical doctrine and moral feelings, nor did he glorify science to the detriment of those doctrines and feelings. This seems to me the substance of the accusation, also whispered by some thinkers, who perhaps regret that it has not been reproduced by some publication of weight. Although I have spent several months in studying Buckle's great work I have admitted, as modest and disinterested seekers for truth are apt to do, the possibility of having imperfectly understood that great work, and I have set myself to studying it anew. On this occasion, mistrusting my own judgment, I wished to read through the most important works on and reviews of Buckle, to the end of ascertaining how far their conclusions coincided with mine. I can assure my readers that I honestly intended to make a public confession of my sins, if my new studies showed me any error.

The thesis which I upheld tended to oppose a certain propensity which seems to prevail in some philosophical systems, and remained unnecessarily fixed in the pages of Buckle's work. I opposed Buckle especially because I consider him the most honest and eminent representative of a baneful manner of solving the problem of human civilization. The first canon of science must be to seek the truth disinterestedly, with the greatest impartiality.

The English philosopher, it has been pointed out to me, did not intend to deny the importance of morals; he only affirmed their eternal immobility. Do you see that ancient building which rises proudly to the sky? It stands so, thanks to the foundations which are underground. In the visible part the various architectural styles have left their trace in the successive evolution. According to this picturesque figure the motionless base is nothing but the non-progressive moral doctrines, non-progressive because they are eternal. The infinite chain of scientific progress is determined by the infinite evolutions of scientific knowledge. This seemed to be also the thought of that newspaper article which insinuated that I had not read the following passage in Buckle's work:

> There can be no doubt that a people are not really advancing, if, on the one hand, their increasing ability is accompanied by increasing vice, or if, on the other hand, while they are becoming more virtuous they likewise become more ignorant. This double movement, moral and intellectual, is essential to the very ideal of civilization, and includes the entire theory of mental progress.

I am not in the habit of carrying on polemics; I have unfortunately on some occasions sought out a worthy opponent and, if I did not find one, I kept silent. But this time I felt that the importance of the subject and the worthiness of my opponents made it imperative for me to answer the kindly censure. Why did I insist on designating Buckle as the highest representative of that school which eliminates the laws of morality and writes down in history only intellectual progress and scientific discoveries, and this in spite of the passage reproduced above which was known to me when I delivered my address, and which appeared to me as a protest escaped from the man against the philosopher? Although I should have preferred to declare publicly that I was mistaken, I cannot do so. I quote the exact words of the eminent author:

> A question, therefore, now arises of great moment: namely, which of these two parts or elements of mental progress is the more important. For the progress itself being the result of their united action, it becomes necessary to ascertain which of them works more powerfully, in order that we may subordinate the inferior element to the laws of the superior one. If the advance of civilization, and the general happiness of mankind, depend more on their moral feelings than on their intellectual knowledge, we must of course measure the progress of society by those feelings; while if, on the other hand, it

> depends principally on their knowledge, we must take as our standard the amount and success of their intellectual activity. As soon as we know the relative energy of these two components we shall treat them according to the usual plan for investigating truth; that is to say, we shall look at the product of their joint action as obeying the laws of the more powerful agent, whose operations are casually disturbed by the inferior laws of the minor agent. . . . We shall at once see how extremely small is the influence those (moral) motives have exercised over the progress of civilization. For there is, unquestionably, nothing to be found in the world which has undergone so little change as those great dogmas of which moral systems are composed. . . . But if we contrast this stationary aspect of moral truths with the progressive aspect of intellectual truths, the difference is indeed startling. . . . Since civilization is the product of moral and intellectual agencies, and since that product is constantly changing, it evidently cannot be regulated by the stationary agent. . . . The only other agent is the intellectual one; and that this is the real mover may be proved in two distinct ways. . . .

Up to this point the benevolent interpretation which I have already mentioned, namely the simile of the building which is supported by the eternal basis of morals, may be accepted. But I must ask my kind readers to follow me further. Buckle goes on in his inexorable demonstration to say that "not only is the intellectual principle much more progressive than the moral one, but its results have a more permanent character." The conquests of science are the eternal legacy of humanity, which is not diminished but increases enormously. On the contrary, good deeds are less susceptible of transmission:

> That is, that although moral excellence is more amiable, and to most persons more attractive, than intellectual excellence, still it must be confessed that looking at ulterior results it is far less active, less permanent, and, as I shall presently prove, less productive of real good. . . . If we examine the effects of the most active philanthropy, and of the largest and more disinterested kindness, we shall find that those effects are, comparatively speaking, short-lived; that there is only a small number of individuals they come in contact with and benefit. [Here Buckle perceives the harshness of his words, which take away every reason and every mission for all holy and apostolic souls, and he declares:] These conclusions are no doubt very unpalatable; and what makes them peculiarly offensive is that it is impossible to refute them. For the deeper we penetrate into this question the more clearly we shall see the superiority of intellectual acquisitions over moral feeling.

All this may be true; but whoever attributes to Buckle the idea of preferring a learned German philologist who interprets correctly some

Etruscan inscriptions to an apostle of charity, cannot be said to slander the English philosopher.

Buckle thinks that moral sense is incapable of diminishing religious persecutions, " . . . the great adversary of intolerance is not piety but knowledge." This can be said also of war.

Therefore, if the English emancipated the black slaves of the colonies before every other people, according to Buckle, this can be ascribed only to their greater intellectual advance. But I believe that without the immaculate soul of Wilberforce, who renewed, in the practical nineteenth century, the sublime apostolate of human freedom, the emancipation of the negro would not have been voted in 1833 by the British Parliament. The great act issued first from the hearts of that noble people, and only in a secondary way from their heads.

Let us examine some other example of the positivist philosopher's argument. War is steadily declining in the progress of society, according to Buckle. "What share have our moral feelings had in bringing about this great improvement?" he asks, and he answers that "those feelings have had no share at all. For it surely will not be pretended that the moderns have made any discoveries respecting the moral evils of war." As if moral truths should act by themselves, and they should not constantly struggle against the ferocious passions of society! The eternal evolution of moral ideas, which is gradually being incarnated in human souls, is found in this very idea.

> Since, then, in the two most important phenomena which the progress of society presents (the end of religious persecutions and the decline of war), the moral laws have been steadily and invariably subordinate to the intellectual laws, there arises a strong presumption that in inferior matters the same progress has been followed. [And although our author has no time to prove all this, he asks the reader to rely upon his word alone, and he pledges himself to show that] the progress Europe has made from barbarism to civilization is entirely due to its intellectual activity; that the leading countries have now, for some centuries, advanced sufficiently far to shake off the influence of those physical agencies by which in an earlier state their careers might have been troubled; and that although the moral agencies are still powerful, and still cause occasional disturbances, these are but aberrations, which, if we compare long periods of time, balance each other, and thus in the total amount entirely disappear. So that in a great and comprehensive view the changes in every civilized country are, in their aggregate, dependent solely on three things: first, on the amount of knowledge possessed by their ablest men; secondly, on the direction which that knowledge takes, that is to say the sort of subjects to which it refers; thirdly, and above all, on the extent to which the knowledge is diffused and the freedom with which it pervades all classes of society. . . .

> These are the great movers of every civilized country and, although their operation is frequently disturbed by the vices or the virtues of powerful individuals, such moral feelings correct each other, and the average of long periods remains unaffected. Owing to causes of which we are ignorant the moral qualities do no doubt constantly vary; so that in one man or perhaps even in one generation there will be an excess of good intentions, in another an excess of bad ones. But we have no reason to think that any permanent change has been effected in the proportion which those who naturally possess good intentions bear to those in whom bad ones seem to be inherent. In what may be called the innate and original morals of mankind there is, so far as we are aware, no progress. . . . The actions of bad men produce only temporary evil, the actions of good men only temporary good.

Buckle cannot deny that "the actions of individuals are greatly affected by their moral feelings and their passions; but these being antagonistic to the passions and feelings of other individuals are balanced by them." He adds that the great social laws can only be perceived by observing great numbers and long periods, for in a small number and short period "the individual moral principle triumphs and disturbs the operation of the larger and intellectual law."

As he proceeds in his discourse the English philosopher becomes more abrupt, comes to consider the action of morals as the disturbing element of history, and he is happy in the fact that he has eliminated it. There is a note of triumph and joy in his declaration:

> The totality of human actions being thus, from the highest point of view, governed by the totality of human knowledge, it might seem a simple matter to collect the evidence of the knowledge, and, by subjecting it to successive generalizations, ascertain the whole of the laws which regulate the progress of civilization. And that this will be eventually done, I do not entertain the slightest doubt.

Up to now, however, history has been written by men inadequate to the task undertaken, and it has not been entirely liberated from the disturbing moral element.

It does not seem to me that I have misrepresented Buckle's thought or slandered him when I formulated his doctrine in my address with the following conclusion: From whatever aspect the problem is considered, humanity represents an enormous labor of the brain unperturbed by the heart. Buckle's theory reminds me of those eternal and motionless glaciers which the rays of the sun may color but never melt nor pierce. An eminent English writer, whom I have consulted and who interprets the doctrine of his fellow countryman in the same way, expresses his conclusions as follows: "This system substitutes for the moral government of the world an infinite intelligence, capable of enclosing in its universal orbit all the aberrations of individual freedom; it is nothing but a mere concourse of facts unregulated by any definite design and without any moral purpose to direct them."

Since the controversy has been started it will be necessary to go to the bottom of it. Even admitting that the quotations accumulated thus far have no value; that I have through the effect of mystic hallucinations (!) read in Buckle's book words that are not in it, what importance can individual freedom have, the notion and the practice of duty and the moral autonomy of the individual in a system that annihilates free will?

> It is evident [says Buckle], that if it can be demonstrated that the bad actions of men vary in obedience to the changes in the surrounding society, we shall be obliged to infer that their good deeds, which are, as it were, the residue of their bad ones, vary in the same manner, and we shall be forced to the further conclusion that such variations are the result of large and general causes which, working upon the aggregate of society, must produce certain consequences without regard to the volition of those particular men of whom society is composed.

Free will, or the like, is called by Buckle, "a capricious and personal principle." Crimes are submitted to fixed laws which depend on social conditions; the murderer is the expression of these laws, the fatal executor of a certain order of things. Even suicides are identical in number: "In a certain condition of society a certain number of persons must put an end to their own lives." An English writer, commenting on this inexorably fixed number of suicides, says with a humor in which there is a touch of venom: "According to this doctrine, if a girl disappointed in love throws herself into the Thames, the probability that a bankrupt merchant will blow out his brains is diminished."

This is not the place nor the time to discuss Quételet's statistical theory concerning the regularity and periodicity of certain moral facts in regard to the principle of free will. Among others Professors Messedaglia and Lampertico have attempted to do so, masterfully as is usual with them; perhaps I also shall reason about it when the opportunity presents itself. Here I shall confine myself to a single observation. The statistical research initiated by Quételet with rigorous method may prove the existence of a certain order in their total results, but it does not consider the individual result, which it does not claim to foresee. The answer to a question whether a man will kill another man can but be uncertain by effect of free will, just as it is in all single cases in the law of probability. The rigorous limits of science are exceeded when one says: "In a certain condition of society a certain number of persons must put an end to their own lives. This is the general law; and the special question as to who shall commit the crime depends of course upon special laws; which, however, in their total action must obey the large social law to which they are all subordinate." That "of course" cannot be accepted at its face value. Because a certain number of persons commit suicide does not prove that it is easy or possible to indicate the category of persons. Now until this is proved—and it is more difficult to do it than to say it, as science is not satisfied with a simple "of course"—until the single cases are submitted to fixed laws Quételet's doctrine can accord with that of free will.[1] Be it noticed that I have no desire just now to examine thoroughly this thesis, nor surround it with all the reasons and all the light of moral philosophy; I simply follow Buckle in the general course of his reasoning.

But to go back to our principal argument, it is clear that Buckle's theory of the progress of civilization is founded upon this kind of premises, which eliminate free will. Buckle wishes, in other words, to take away from the individual his moral freedom, just as his theory tends to remove the moral element from history; and these two mutilations coincide and illustrate each other. They are consequently completed by the not very elevated way with which he considers the different religious creeds, which are for us the great natural, and not artificial, history of the religious sense inherent in humanity. In his opinion "the system of morals propounded in the New Testament contained no maxim which had not been previously enunciated, and some of the most beautiful passages in the apostolic writings are quotations from pagan authors; this is well known to every scholar." With all respect to the English philosopher and his fanatical admirers, all this is not entirely exact, and it demanded just that scientific demonstration which has not been given. One of the evolutions of the idea of morals is the manner by which it is announced and the effect which it obtains. Colors existed before Raphael, but he alone knew how to produce by them the wonderful effects found in some of his pictures. And the same can be said of certain moral ideas slumbering among the humans. Jeremiah, Isaiah, Socrates, Buddha, Jesus, St. Paul, have made a cluster of celestial rays which still enlighten and console mortals. And since the principal evolution of virtue depends upon the different degree of intensity with which the same moral feelings are cultivated and practiced, those men may be called marvelous and divine who succeed in instilling, by their preaching of the higher philosophical system and the purer religions, a greater number of moral ideas in human actions. And I hope to be able to prove, by the publication of a book which I have been preparing for a long time, that the equality of men before God, the dignity of resignation, the glory of humility, the sanctity of the family, the forgiveness of offenses, love for one's enemies, the law of charity which embraces the world, the purity of life, the defense of the oppressed and the assistance of the weak, were not understood in the same manner in all times or by all the systems of morals and religion.[2] Even in this there is a special evolution which is not as easily perceived as that which took place in the field of knowledge that has a well-designed outline. It is easier to demonstrate how the three angles of a triangle are equal to two right angles, than to make clear the ultimate and decisive reason which imposes upon a son the duty to love his parents. Buckle has failed to direct his attention to all this inner and obscurely sublime world, which proceeds through intuitive demonstrations and ineffable visions, and not through analytical argument—and he cancels it with a stroke of the pen. But this same inner world rebels against the sentence of the English philosopher, and survives him.

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[1] Professor Messedaglia, in his address on *The Science of Statistics and its Methods*, examines the doctrine of relative constancy and regularity of the facts that are dependent on human will. He speaks of the consequences that certain philosophers draw from these statistical observations, and he mentions "the new historical doctrine, crudely expounded by Buckle." Professor Messedaglia shows, with rigorous scientific care, "that the result, so surprising at first sight, has nothing to do with individual freedom, or with a determinate philosophical system which it is desired to associate with such individual freedom. This is just because the result gives the mass of the individuals and not the single persons. In order to assign a value to the single individual in the constancy of the general results we ought to show, for example, that every individual agrees with the results, without exception, according to a proportion and a rule, also constant, that everyone should have, in a constant way, a personal participation in the general criminality. This would be the point to be demonstrated, but in fact this is not so."

It must appear obvious to everybody—and it is consequently unnecessary to observe here—that religion is also the result of a double action, moral and intellectual, that it not only pertains to the moral ideas of the times in which it was founded but also the scientific ideas of that same period. We still lack a work which assigns the specific value of these two elements in the history of religions; but it is certain that the moral element was predominant.

Never, *never*, *never*—we shall repeat with the words of the elder Pitt when he affirmed in the House of Lords that the Americans would never allow themselves to be trampled by a brutal soldiery—*never*, *never*, *never* will the intellect possess a monopoly over the heart! The two essential factors of progress are morality and knowledge. Either they proceed in harmony, and then humanity is great, or there is a conflict between them and humanity is miserable. It is difficult to determine which one of the two elements is the most decisive, and we still lack a truly scientific and exact work that may solve the formidable problem.[3] But in order that Buckle's theory might be proclaimed true it would be necessary to prove that a world, an historical period, a country of learned criminals, are not possible, and that science contains and ripens only the idea of good among its other gifts. Is it not permitted to think that there may be a man endowed with Newton's intellect and at the same time cursed with a conscience as black as Nero's? And who has proved that virtue draws its light from culture only?

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[2] In Lecky's *History of European Morals from Augustus to Charlemagne* the author, who is a free thinker, examines the highest point reached by the ethical doctrines of the pagans, and compares them with the ideas and practice of brotherhood and of a purer morality introduced by the religion which has succeeded paganism, by virtue of a natural and necessary evolution, which eliminates every miracle in the theological sense of a suspension of nature's constant laws. This is the correct and scientific aspect from which religion must be considered also in our day.

[3] My further meditations on this subject, indications of which will be found in this volume, have solved the problem in my mind. Kindness is superior to knowledge, although their contemporaneous help and progress constitutes the ideal. But it would be an unpardonable error to diminish the function of science. See Appendix X.

For us, who belong to a school not mystical but rational, goodness and knowledge appear as two essentially diverse and distinct qualities, and it has not as yet been shown what necessary relationship exists between the two, although it is very probable that this relationship does exist.

To love one's mother, to sacrifice one's life for God or country, seem to us things different from making a chemical analysis or finding the exact position of Uranus in the sky. But all feel that a learned saint, of the type of Socrates and St. Paul, represents perfection. And our weary and impatient modern society has also the supreme longing to be everything in order to feel that it is something. *Lucere et ardere perfectum est;* to shine with science and love. And until men have acquired mathematical evidence (which would be received with melancholy resignation) they delay in the glorification of a doctrine which exonerates humanity from the effort of doing good. A nation is composed, by a fatal condition of things, of much ignorance and little science, and it would be imprudent to assert that only the patrimony of moral feelings, which makes the heart of all its sons beat with a single conscience, represents an order of inferior phenomena subordinated to the dominating and inherent laws of the intellect. True science is neither so inexorable nor so rash, and while it moves over the immense unexplored fields which belong to it, it leaves intact the region of moral and religious feelings. Science does not explain the mystery of creation, it only moves it farther back through the ages, and although in so doing it obtains a great and noble result it has only succeeded, according to the expressive comment of a French philosopher, *à dériver l'ignorance d'une source plus haute.*

And in spite of Buckle's colossal work we can still trustfully wait for a philosophy of history which will not mutilate any fundamental aspect of human nature, but which will discover and determine the hidden harmony that must connect truth with goodness.

ESSAY ON THE DOCTRINES OF THE RELIGIOUS AND PHILOSOPHICAL PRECURSORS OF THE MODERN FATALISM OF STATISTICS

THE presence of my distinguished friend, Luigi Bodio, at the opening of this course on the science of statistics [1] is a happy omen for its success. A long and faithful friendship, founded upon mutual esteem and common studies, unites me to the eminent scholar for whose appointment as successor to Pietro Maestri when I held the portfolio of commerce I am happy and proud to have been responsible.

Pietro Maestri was the founder of the Italian Bureau of Statistics under the guidance of Cesare Correnti; Luigi Bodio, who succeeded him in its direction, conducted it with an even more scientific character and has earned international fame by his labors.

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[1] The course on the science of statistics was opened at the University of Perugia in 1895. Luigi Bodio was for several years director of the Bureau of Statistics in Rome.

In the statistics of population—the foundation of every other type of research—of savings, of national banks, of a penal system, the works that have issued from his laboratory are everywhere considered models of their kind.

If statistics be knowledge of self applied to nations, how great was Signor Bodio's contribution in the knowledge we Italians have acquired about our qualities and defects! And if figures, while they do not govern the world, teach us how it is governed, it is surely not for lack of exact statistical data that Italy has not been better administered in the last few years.

You will, I am sure, join me in this expression of esteem and admiration for the distinguished economist who modestly sits among you, and whom I am happy to greet from this chair.

Drawing inspiration from the presence of Signor Bodio, my intention to-day is to attack one of the most difficult problems in statistics, which dominates all moral and social sciences, casting its shadow over them.

I wish to reason about the doctrines of the religious and philosophical precursors of the modern fatalism of statistics, a topic which, if I am not mistaken, is new in connection with such research as I have undertaken here.

Are we free? I am not alluding to formal freedom, to political, civil, administrative forms of liberty, but I intend to speak of that inner freedom which is the substance of will power, the root and essence of our moral existence.

Adolph Wagner, an eminent German economist, has in collaboration with many others [2] examined this aspect of statistics. He completed the studies initiated as far back as 1741 by Süssmilch, who saw a divine and fatal order in the development of demographic phenomena, a subject taken up later, with much more powerful tools, by the great Quételet. Wagner imagined that in the good old days when people enjoyed reading the story of imaginary voyages in the manner of *Gulliver's Travels* an author, in order to attract the public with a novel treatment of a dry subject, had offered the following description of a foreign state. In that country a law determines every year how many couples may marry, what age the future husband and wife must be, how many young women will marry elderly men, how many young men will wed old maids, how many widows and widowers may remarry, how many married couples may separate or be divorced; all this is decided by the drawing of lots.

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[2] Wagner's work was published in 1864 and its title is *Statistich-Antropologische Untersuchung der Gesetzmässigkeit in den scheinbar willkürlichen Handlungen.* Later on Wagner declared, without proving his point, that he had modified his views on the mechanical fatalism of human actions, under the influence of Oettingen's masterly work entitled *Die Moralstatistik,* Erlangen. The first edition was published four years after Wagner's book.

Even in his essay on statistics (1868) Wagner somewhat repudiated his mechanistic and materialistic point of view, without giving exhaustive reasons for his new attitude. In the *Grundlegung der politischen Oekonomie* (3rd edition, 1892-94) he speaks of the mechanical laws (pp. 215ff.) in the *Methodologie und Psychologie* (Vol. I). But he did all this, we repeat, without examining thoroughly the new aspect of the controversy. However, what seems essential is that while he does not make an express retraction he has tempered his blunt assertions of 1864.

Another law fixes the number of persons who must commit suicide, and distributes this number in a proportion determined by sex, age and profession, prescribing how many in each category must use water, poison, firearms, or a rope to accomplish the passage from life to death. Here, too, all these figures are determined by the drawing of lots.

A third law prescribes how many crimes must be committed in the following year, what classes of the population must participate in these crimes, how many are to be condemned and how many acquitted.

Briefly, all the actions which seem to us the result of our free will are rigorously prescribed in that fantastic country and their numerical proportion is fixed in advance.

At the end of the year the books are examined and the figures are generally found to be accurate with slight variations, in which case the balance is brought forward to the next budget of acts to be committed, just as is the procedure in our financial budgets.

This is only an empty hypothesis; but those phenomena which we cannot suppose may take place in consequence of a law of the state occur through a law of nature which takes no consideration of single individuals. The most remarkable thing is that we act like the parts of great engines and at the same time have an entire and unlimited freedom of movement which does not at all disturb the great apparatus in its preëstablished rhythm. And moreover we think that we act by reason of our determination and with full freedom while in fact we receive the impulse from without, and our actions taken together are defined by constant and universal causes, and are executed neither more nor less differently than the phenomena of the physical order of the world.

The law of the fatal regularity of human actions, which apparently depend on the freest of wills, was never expressed more bluntly; never were more rigid consequences drawn from Quételet's premises.[3] But these consequences were perhaps expounded even more emphatically by Henry Thomas Buckle in his *History of Civilization in England*, a powerful work which has even been too fortunate, in my opinion, in that it is acclaimed by the public without sufficient discretion in judgment.

Buckle tries to banish the moral element from history, and by a logical deduction to take away from man his moral freedom; these two mutilations are reciprocally illustrated by and confronted with each other. And they complement each other in the manner, neither lofty nor disinterested, in which he considers the great religions of the world that are, for the school to which they belong, the great natural and not artificial histories of the sense of divinity inherent in humanity.

For the English philosopher says:

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[3] In Maurice Block's *Traité théorique et pratique de Statistique* and in Antonio Gabaglio's *Teoria Generale della Statistica* nearly all the principal works in which the topic is treated are enumerated and commented upon.

> in reference to our moral conduct there is not a single principle now known to the most cultivated Europeans which was not likewise known to the ancients. . . . The system of morals propounded in the New Testament contained no maxim which had not been previously enunciated; some of the most beautiful passages in the apostolic writings are quotations from pagan authors.

If human progress depends on moral sense rather than on knowledge social progress must be measured in terms of virtue; but if it depends on intellectual achievements then science in its development will be the guide and light of human life.

Buckle investigates analytically the relative energy of these two forces, virtue and science, and strives to demonstrate that the intellectual principle is not only more progressive than ethics but that it is also more permanent in its results. Knowledge is a patrimony that can be accumulated and handed down from one generation to another; but the good deeds effected by our moral capacities are less capable of transmission.

For him, once the perturbing forces of morals (such do they seem to him!) are eliminated, humanity represents in its sound development an immense labor of brain, unperturbed by the emotions of the heart. His theory reminds me of those eternal and colossal glaciers which the rays of the sun color but never melt nor pierce!

Obviously if we succeed in demonstrating that the bad deeds of men vary in accordance with a change of surroundings we must conclude that good deeds appear to be, as it were, the residue of their wicked actions, which follow one another in the same manner, and that such successions of phenomena are the effect of general causes which bear their influence upon society without reference to the single individuals. Free will is called by Buckle a capricious principle; the crimes committed by men are submitted to fixed laws and depend solely on social conditions of which the murderer is the fatal expression. He kills, but society puts the weapon into his hands and commands him to strike. Even suicide is inevitable. In a given state of society a certain number of persons must put an end to their own lives, through the predetermined designs of the mechanical genius of evil.

Therefore, my dear young men, if a bankrupt merchant blows out his brains the probability that one of you, the victim of an unhappy love affair, will put an end to his life, is diminished.

Anyone who attempts thorough research into this weighty topic finds reproduced in modern sociological and statistical form an ancient controversy, which flared up again and again in the most important periods of history and which appears to be almost a challenge launched by human thought to itself. I am alluding here to the conflict between free will and determinism, between sovereign *will* and sovereign *necessity.*

The ancient world avoided the controversy whenever possible, or rather did not try to fathom the question, although fate chained even the will of

Jupiter, and Hercules took it upon himself to fulfill the decrees of destiny.[4]

Before her death Electra addressed a supreme prayer to Jupiter, asking him to look smilingly at her from Olympus since no better reward was granted by fate. In such a way did the all-powerful will of destiny substitute itself for the decrees of the gods and the women who loved the gods.

Cicero summarizes and discusses in the immortal fragments *On Destiny* (*De Fato*) all the doctrines of the Greek philosophers who argued with admirable subtlety about fatality and free will. Chrysippus' dialectic efforts to conciliate these two forces are admirable, and Aulus Gellius has preserved the discourses by which he strives to determine the influence and the necessity of fate, at the same time leaving freedom of judgment and resolution to man. But that prince of stoic philosophy did not succeed in his attempt, and the followers of other schools objected to him, according to Cicero, saying that

> if everything is governed and decided by fate, if there is no room for any event outside its whirlwind, we must not cry out against the faults and crimes of men, which must not be imputed to their will, but to the violence exerted upon them by fate. If the most absolute fatality reigns in the world, if it arranges and disposes of everything, the punishments inflicted by the laws upon the criminals are full of iniquity, because men are not impelled to evil deeds by their will, but are dragged toward them by destiny.

Thus did the ancients discuss the consequences of a doctrine that Cicero called "the doctrine of sloth," because if true it suppressed the distinction between good and evil, and with it the reason for doing anything in life.[5]

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[4] Patin, *Études sur les tragiques grecs*, Vol. I, *Eschyle*, p. 139. Æschylus and Sophocles had depicted the gods who plunged mortals into inevitable misfortune. In Euripides the gods send down invincible passions to the mortals. With Æschylus and Sophocles the hero of the tragedy fought against external obstacles; with Euripides he had to fight against his internal enemies, transferring the seat of the dramatic struggle to the heart of man.

Prometheus exclaims in his invective: "Let us courageously submit ourselves to the decrees of fate; let us not struggle against the force of necessity, which we know to be invincible."

The Nemesis of the Greeks, a kind of law of equilibrium, particularly strikes the lucky guilty ones in the hour of their trumph. Fate reëstablishes the moral order, correcting the proportion between guilty fortune and honest misfortune.

[5] I have read again Cicero's existing fragments of his work *De fato*, and I have again found them delightful. All the questions agitated in our day are there treated with a marvelous loftiness of thought and form. The influence of climate upon character; the all-powerful action of physical laws, that is to say, external determinism; the all-powerful action of the divinity; the concatenation of the antecedent facts with the subsequent. All these modern problems are treated by Cicero with marvelous eloquence and admirable subtlety in the controversy. Even the anthropological school has its predecessor there in that Zopyrus who claimed that he could guess the character and temperament of men by examining their body, eyes, face and forehead. *Zopyrus, phisiognomon qui se profitebatur hominum mores naturasque ex corpore, oculis, vultu, fronte pernoscere* (*De Fato*, Chap. V).

But these problems, discussed by the ancients, savor of the academy and are not felt by the conscience of the people. Cicero argues amiably, he does not suffer; the fathers of the church lived and suffered their philosophy.

The sentiment of this human tragedy, of this mysterious dualism of freedom and fatality which is represented by each individual, becomes manifest with the arrival of Christianity.

The believer who searched his conscience, in the creative ecstasy of mystic faith, wondered at the mysterious causes of evil and sought to ascertain whether perfection depended upon man's will.

No one has narrated such mental anguish more vividly than St. Augustine; the philosophy of his ideas traces the physiology of will in the dawn of Christianity. He asserts that free will has been absorbed by the all-powerful action of divine mercy through ascending stages from the earth to heaven.

How can evil be explained, evil which is born with man and accompanies him through his miserable life?

Origen thought that he had found the interpretation of the mystery in a preceding life, of which the present is a continuation and an atonement. He thinks that in the fullness of time all men will be redeemed and evil will disappear. The Savior will have no peace while one wicked soul remains on earth.[6]

Manetho asserted that evil was as eternal as God, thus absolving God for its creation. St. Augustine was not free from the idea of the battle between the two principles that were admitted by the Manichæans. Man is not always inclined to goodness, and even when he feels an impulse for good his evil passions conquer him. After a long and fruitless effort to find a solution for his doubts the saint threw himself into Manichæism. In his work on *Free Will* (I, 4) he says:

> *Eam quæstionem moves, quæ me admodum adolescentem vehementer exercuit, atque fatigatum in hæreticos impulit atque dejecit. Quo casu ita sum afflictus, et tantis obrutus acervis inanium fabularum, ut nisi mihi amor inveniendi veri opem divinam impetravisset,*

It is true, however, that Zopyrus declared that Socrates was a fool, because he had a concave throat, and found that he had a great inclination toward women (*mulierosum*), which made Alcibiades laugh immoderately, because he could attest to the philosopher's chastity. (See the *Eutifrone.*)

Cicero says in the *Tusculane* that Socrates saved Zopyrus' reputation by declaring that nature had made him disposed to those vices, from which reason had liberated him. *Ab ipso autem Socrate sublevatus, cum illa sibi signa, sed ratione a se dejecta diceret* (*Quæstiones Tusculanæ, lib.* V, XXXVII).

I am planning to write a special volume about the doctrines of the ancients concerning fatalism and freedom, and their relations to modern controversies. See also Zeller's notable studies on free will and necessity, in his great works about the philosophy of the Greeks.

[6] Origen, *Homil. in Levit.* VII, 2: "*Salvator meus lætari non potest, donec ego in iniquitate permaneo. Quare non potest? Quia ipse est advocatus pro peccatis nostris apud patrem.*" A whole book would be necessary to expound and judge the theories of that great mind.

> *emergere inde, atque in ipsam primam quærendi libertatem respirare non possem.*

Such a powerful mind could truly not be contented to abide long by the error of Manichæism. To fight them St. Augustine observed that evil is so congenial with men that it almost seems to constitute their essence. It is the effect of the original sin committed by Adam, who vitiated human nature by disobeying God's commands. Therefore evil has its root in free will and not in the Creator. How can man rise after his fall? He must have recourse to God, from whose mercy he can expect everything.

St. Augustine, in order to oppose Manichæism, starts from the principle of free will, which he connects with the origin of evil. But on the other hand the original sin so vitiated freedom that this exists only in appearance. How can this apparent contradiction be explained in the great mind of the Latin father?

A new heresy was brought forward. Pelagius,[7] a heresiarch of the fourth or fifth century and a great thinker, refuted the theory that original sin had rendered human nature depraved. He asserted that Adam's guilt is not to be imputed to his descendants, that man has the power not only to sin, but to perceive and to do what is good, and that therefore he is capable of procuring his own salvation by a proper use of his inborn power. St. Augustine was frightened by a doctrine in which the pride of the Pharisees seemed to harmonize with the haughtiness of the Stoics and thus aim to destroy Christian humility.[8] Then he set himself to casting down the proud pretensions of man; demonstrating him to be powerless to do what is good by himself alone, and only capable of evil by himself, condemned for eternity unless the mercy of God takes him out of the corrupted mass where original sin has cast him.

In his struggle against Manichæism the father of the church is the defender of free will; in his opposition to Pelagius he sacrifices freedom to grace. Leibnitz reproaches him in his preface to the *Teodicea*[9] for having let himself be carried away to extremes in the heat of controversy, but this does not appear to us to be true. The saintly doctor elaborated the doctrines of Christian revelation.

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[7] See the edition of St. Augustine by Antonelli of Venice (1862); see Vol. XI against Pelagius. The following passage is from a letter sent by Pelagius to Paulinus: "*Se non debere sine gratia Dei defendere liberum arbitrium cum possibilitatem volendi atque operandi, sine qua nihil boni velle atque agere valeremus a Cratore nobis insitam diceret.*"

The following are the propositions of the Pelagians, deemed to be heretical:

Adam mortalem esse factum, qui sive peccaret, moriturus fuisset.

Quod peccatum Adæ ipsum solum læsit, et non genus humanum.

Quod parvuli qui nascuntur in eo status sint, in quo Adam fuit ante prævaricationem.

Quod neque per mortem vel prævaricationem Adæ omne genus humanum moriatur, neque per resurrectionem Christi omne genus humanum resurgat.

Quod et ante adventum Domini fuerunt homines impeccabiles, id est, sine peccato.

Si Adam nocet his qui non peccaverunt ergo et Christus prodesse debet etiam his qui non crediderunt.

St. Augustine opposed Pelagius but he loved and respected him. He says in epistle 168: "*Non solum dileximus, verum etiam diligimuseum.*" This epistle is very important because it summarizes the theological controversy with the Pelagians.

[8] St. Matthew: "Learn of me; for I am meek and lowly in heart" (11:29); St. Augustine: "*Doctor humilitatis Christus*" (De sancta virginitate, 31). "*In humilitatis infirmitate perficitur virtus charitatis*" (IX, 923). Man must have not only the feeling of humility, but *love* it as well. (V, 1088).

In our day, when we have lost the taste for theology, we might be inclined to regard as idle dispute the controversy over grace and free will; but it arises again from the depths of ancient dialectics with the new scientific wind. There are problems which are eternal, because they are insoluble, but they are so innate in the moral essence of man that he cannot free himself from them, however great be the trouble and sorrow that he feels through them.

Truly, how much of powerful and inexhaustible philosophy there is in the controversy between St. Augustine and Pelagius!

The latter's doctrine, which made salvation depend on the will of man, seemed to St. Augustine to allow no scope for divine action. And then, what would have happened to Christian humility, which derives everything from God? Pelagius' grace is the attitude that God has impressed upon man to do good through his nature; grace accompanies the free determination toward good deeds. The idea that man could emancipate himself for a single moment from divine will is repugnant to St. Augustine, and he connected original sin with grace. Even good deeds cannot bring salvation if God does not wish it. God can reward whoever makes good use of grace, but this reward is a new grace, not a debt paid to the well-deserving in compensation for good deeds. Persisting in goodness and final salvation is also an active grace.[10] For the Christian,

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[9] Leibnitz is the Plato of Germany, as Kant is its Aristotle. In the *Teodicea* he reasons thus: "*In quo spero veniam daturus mihi, quod a S. Augustini sententia recedere ausim, viri sane magni, et ingenii stupendi, sed qui interdum excesisse modum videtur, præsertim in æstu suarum disputationum*" (p. 57 of Leibnitz's works, Geneva, 1768). For all important questions about the origin of Christian doctrines see Neander's great work, *Geschichte der christlichen Religion,* and the works of Bruno Bauer, the eminent leader of the Tübingen school.

Vol. IV of Neander's *History of the Religion of the Christian Church* treats in a special manner of the conflicts of grace. (See English translation, published in London, 1858.)

[10] As there were two princes in heaven, the Manichæans said that there were two souls in every human being: the divine and the diabolical source. See St. Augustine, *De duabus animabus.*

How could man repent, improve and absolve himself, if he had a wicked soul?

This objection of St. Augustine's is decisive; and when he reasons against the Manichæans, he is more admirable than ever. See *De liberi arbitrio, libri tres* against the Manichæans. See also *De moribus Manicheorum.*

The argument on grace against the Pelagians, who glorify free will, is more abstruse, and it is difficult to reconcile it with the discourses against the Manichæans. In his essay, *De gratia et libero arbitrio,* he founds his thesis powerfully; it is summarized as follows (Vol. XI, pp. 798ff., ed. Antonelli): *Docet cavendum esse ne vel gratia negato libero arbitrio vel negata gratia liberum arbitrium defendatur; nam liberum voluntatis arbitrium inesse homini, constare ex scripturarum testimoniis; de ipsa etiam gratia Dei, sine qua nihil boni agere possums, data esse in iisdem scripturis divina documenta. Postea contra Pelagianos probat gratiam non secundum merita nostra dari.*

But then the saintly doctor, illuminated by a recondite and transcendental light, rises to the visions of grace that surpass all kinds of free will. We give here his most inaccessible propositions on this theme:

Gratia jam non est gratia præcessisse si contendimus merita (Vol. II, 4, 833). *Gratia* the action of grace is continuous; the tie that binds the souls to God is never broken, and the mystery of His presence among us is renewed every instant. Eleven centuries later, in the great movement of the Reforma-

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et inchoandi et usque in finem perseverandi non datur secundum merita (XI, 943). *Gratia Dei gratuita nullis præcedentibus meritis, non iniqua* (XI, 16). *Opera ex gratia, non ex operibus gratia* (III, 727). *Gratiam secundum merita dari est gratiam negare* (XI, 950), *gratiam destruere* (XI, 476). *De operibus suis gloriantes ad gratiam non perveniunt* (V. 780). *Secundum merita non datur gratia, sed dat merita ipsa, cum datur* (III, 880).

Not even the saints are assured of grace for good deeds, in order that it may be known that everything comes from God (XI, 356). The humble, only the humble, will always be blessed (VI, 709).

To show how Catholicism joined St. Augustine's doctrine with that of salvation through good deeds would take too long. The inquiry, however, recommends itself to students of these subjects by its subtlety and loftiness.

Naturally, here and there we see between the great philosophers flashes of contradictions, or apparent contradictions, which a deep examination later reconciles. St. Augustine, the sublime doctor of grace, admonishes those who believe they can be saved without good deeds. He observes that the Gospel speaks terribly of them when it says that every tree which gives no fruit must be cut: "*Non dixit quæ facit malum fructum; sed quæ non facit fructum bonum* (Vol. VI, part II, Appendix, p. 617, ed. Antonelli); "*De qua re audiamus et beatum Jacobum libera voce clamantem: Sicut enim corpus sine anima mortuum est, ita et fides sine operibus mortua est*" (Ibid., p. 619).

In short, St. Augustine himself sometimes desists from the crudity of his assertions. Chapter nine of the fifth book of *The City of God*, entitled "Of the Prescience of God and of Man's Free Will against Cicero's Definition," deserves profound comment. Cicero, in the books *De natura deorum* and *De divinatione*, had made it clear that if all things that are done are accomplished through fate free will is nil; which, says Cicero according to St. Augustine, if it be granted upsets all human life, and all laws are made in vain. Therefore in order that these things, false and harmful to human life, may not happen he does not want to have a prescience of future events. If this prescience of future things is confirmed, choice is removed. St. Augustine subtly opposes Cicero, trying to demonstrate that if the order of all things is certain to God, it does not follow that there would be nothing in the freedom of our will. And he censures Cicero, who "wishing to make men free makes them sacrilegious." In *The City of God* St. Augustine maintains that God knows all things before they happen, and that men feel and know that they do things voluntarily. This controversy between St. Augustine and Cicero on free will could offer occasion for new and profound research.

Schopenhauer (*Le monde comme volonté*, Vol. I, p. 481, French edition), taking up St. Augustine's thesis, wishes to demonstrate how our character is the development in the course of time of a voluntary act, which, existing outside of time, is indivisible and invariable and must express itself in its phenomenon . . . the external form not being essential. . . . Each effect has its cause. The event is not purely and simply determined, but inasmuch as it is the result of a preceding cause the result is decided by fortune, which also determines the circumstances of which it is the result. Consequently if the means do not arise the result will not be produced. The two contingencies are subject to the decision of fortune but we only know it subsequently.

According to Schopenhauer's doctrine we must try to do good because we may be destined not to do evil!

What did Dante mean by "lofty fiat" (*alto fato*)? To what doctrine did it correspond? In Canto XXX of the *Purgatorio* he says:

L'alto fato di Dio sarebbe rotto
Se Letè si passasse, e tal vivanda
Fosse gustata senz' alcuno scotto
Di pentimento che lagrime spanda.

(God's lofty fiat would be violated
If Lethe should be passed, and if such viands
Should tastened be, withouten any scot
Of penitence that gushes forth in tears.)
(Longfellow's translation)

tion, Luther and Calvin assail the papacy and the whole edifice of Catholicism depending upon St. Augustine's dogma of grace. The Reformation was an act of rebellion against the religious and political organization of the church; but Calvin recalled the rebels to humility with the doctrine of predestination, which hardened that of grace, and after freeing them from the yoke of the theocracy of Rome, placed them under the yoke of God! That Calvinism which rejected the mystery of the real presence, because it thought that human reason was offended by it, destroyed the essence of man, by refusing liberty to him. Calvin declares anent the question of sin that the damned as well as the elect were all predestined; the grave saved only the elect. An eternal condemnation weighed upon all men, even the best of them, because the God of Calvin grants a sufficient grace only to those whom He chooses for salvation. Therefore man is not even free to do good, and he turns to evil deeds by necessity. What becomes then of religion? What becomes of society? How can we speak of duty, of penalties and rewards for a being who is predestined to good or evil? The religious and civil laws seem ironical, if they are to be applied to men who are not free to obey them, and the punishments which they inflict become a useless cruelty. The Arminians protest against such grim doctrines; they are the Pelagians of the seventeenth century, and they attempt to weaken Calvin's God in order to save free will. Man is no longer free after the original sin, he is powerless to procure salvation, and still he is punished for not doing what he cannot do. Coonhert asks: Who is this God?[11] A tyrant worse than Nero. Calvin affirmed that God has designated the elect for the eternal life to prove his goodness, and condemns the others to eternal death to prove his justice. If this were true, Coonhert says, the charity of the Creator would be less than that of His creature. God has created men through an act of love, for their happiness and their salvation. The Arminians denied original sin and glorified free will. But the Calvinists answered: If human nature is not vitiated in its essence, why had the Redeemer come to save it?

These great "whys" are the riddles of religion and philosophy, and they remain the riddles of contemporary science.

The modern controversy is no less interesting, nor less vast and tragic than in the time of St. Augustine, of the Pelagians and of the Arminians.

In Canto IX of the *Inferno* we read:

> *Che giova nella fata dar di cozzo?*
> (What helpeth it to butt against the fates?)
> (Longfellow's translation)

Dante's commentators recall *Fatum*, the book by Boehius, which distinguishes between the fate which is the providence of God and the fate of the ancients, and they also recall St. Thomas' profound inquiry. The theme tempts me; but it will be necessary to stop here.

[11] I have spoken of Coonhert as a precursor of religious freedom in the chapter on Spinoza. Coonhert's controversy with Lipsius in favor of religious freedom is a notable one.

Science, or what we call our science, uncertain as it still is, reaches by different paths St. Augustine's grace and Calvin's predestination.

To-day the majority of scholars and many ignorant men who follow their example, teach the fatality of the organic evolution of the moral and physical world, excluding the three theistic hypotheses of spiritualistic philosophy: God omniscient and omnipotent, the immortality of the soul and free individual will. Just as the ancient scholars made all their arguments converge on these three lofty principles, we to-day judge a doctrine erroneous only because in order to explain it we must invoke the aid of one of the three mystical factors, as such deemed antiscientific.

An eminent scholar, Professor Weismann,[12] said not long ago:

> We accept natural selection (Darwin's theory) not because we know how to show its proceedings in all their details, not because we can imagine it with greater or lesser facility, but only because it is the only possible explanation that we can conceive of. We must accept natural selection as a principle of the interpretation of metamorphosis, because we lack all other principles that can be explained, and it is inconceivable that there may be another capable of explaining the adaptation of the organisms without the aid of a preëstablished design.

For a superior intellect like that of Weismann it seems easier to believe in evolution, which cannot be demonstrated in its technical details, and he himself finds fault with some points of it, but refuses to abide by the heresy of a providential order of the universe! Imagine with what cruel joy the adepts of evolution held on to the results of statistics, which attempt to exclude free will from fundamental hypothesis, according to Buckle's crude conclusions, and represent all actions as an expression of a physiological necessity, extending the protective wing of a universal scientific amnesty over every fault, every crime, every act of immorality, every absence of remorse!

And here we find arrayed before us those who sacrifice the law of fatality to religion and spiritualistic philosophy and the conciliators.

Let us examine the former. Held and others affirm that the regularity of moral phenomena is not as great as is believed. There appear continuous deviations, our observations refer to a short period of time and to a restricted territory, things which do not permit us to contemplate the entire life of humanity from high above. At any rate we have failed to discover in any natural phenomenon of human life a cause operating almost mechanically. However attractive this thesis may appear to me, it is not possible to deny the evidence of the regularity of statistical data in order to save free will. The more extended our observations are, the more we see confirmed the order of such phenomena, even in suicide, as we can see from the studies made by Morselli and Bodio, corroborated by new investigations of the *Jahrbücher* of Jena.[13] And it is true that neither egotistical love of life nor the terror of another world that stopped Hamlet's dagger prevents the predestination of suicide, accomplished with terrible monotony. It is vain, they say, to deny that in a given state of society a certain number of persons must put an end to their own lives!

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[12] These observations by Weismann are in an article published in the *Contemporary Review* of September, 1893. See also his controversy with Professor Romanes, in the following works: *Darwin and after Darwin; An Examination of Weismannism* (Longmans, London). Among the works of Professor Weismann, who teaches in the University of Freiburg is worthy of mention the *Essays on Heredity and Natural Selection* (French translation, Reinwald pub., 1892).

Free will is not saved by denying the existence of such statistical phenomena.

We have also the conciliators who wish to harmonize the reality of statistical observations with free will. How they refine their minds, what fertility of expedients they bring to the discussion, and how happy they seem to be when they hope to save both science and good usage and to reconcile the irreconcilable!

Their reasoning is known. Free will does not mean caprice or chance. On the contrary there is statistical regularity in the phenomena observed because it is subordinated to reason and determined according to motive. A whole literature, more or less learned, more or less dull, expounds the laborious art of these organizers of accord between physics and metaphysics.[14]

Let us not treat shadows as if they were solid matter; let us face the whole problem in its tremendous vastness.

Surely, as Messedaglia has already noted, the statistical laws operate by masses, by numerical groups, by averages. They consider the whole and not single individuals. Nor will it be demonstrated, because it cannot be demonstrated, that each one of us must contribute to that result in due proportions, in accordance with constant laws, that is, that each man shall give in a fixed manner, his own part and his own contribution to the victory of fatality.

Buckle alone dared to observe that "the special search of the individuals who commit a crime depends naturally on special laws which, however, must, in their complete action, obey the great social law to which they are subordinated." The time will come when it will be known why we were not murderers!

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[13] See in the *Jahrbücher für National-Oekonomie und Statistik* of Jena (third series, Vol. VIII, 1894), the tables of suicides in the principal countries of Europe, here and there corrected by me. The regularity and conformity—especially for some countries—is nothing short of marvellous.

In Saxony the average number of suicides from 1862 to 1886 was 32 per 100,000 inhabitants, and then it continues like this: 1887, 34; 1888, 31; 1889, 32; 1890, 31; 1891, 33; 1892, 33 (always per 100,000 inhabitants). In Bavaria, 13 per 100,000 prevails—11, 13, 15; in Prussia, 18, 19, 20, 21; in Würtemberg it oscillates between 14, 15, 16, 17. In Asia, 24 per 100,000 from 1883 to 1893, and only once 25, in 1887. In France, 21 per 100,000 from 1884 to 1889; in 1888, 22 with small fractions. In Italy, between 4.9 and 5.7 from 1886 to 1893. In Austria, between 15 and 16 per 100,000. In Belgium, 10, 11, 12. In England between 7 and 8; in Scotland between 5 and 6; in Holland between 5.2 and 5.9. In Sweden between 11 and 12. In Norway between 5.7 and 6.7. In Denmark between 25.7 and 26.7 per 100,000. The same can be said for the regularity of the means chosen for suicide.

[14] Of this kind is a learned work of a few pages published at Louvain in 1908 by Professor Lottini, *La statistique morale et le déterminisme.*

Undoubtedly the limitations on human freedom are continuous. Man lives in a physical world subject to fixed laws and in a social world that is slowly changing. Undoubtedly religion subjugated him with high aims before biology and statistics came to dominate him. Instead of being absorbed by external causes, his free will was absorbed by grace.

But if we wish to plumb the depths of the question, an inner sense, individual conscience, the conscience of history, warns us that fatality, organic law, grace, necessity, exist, and free will also exists. Science has neither reconciled nor interpreted the mystery of these supreme forces.

Surely nature is not sentimental; each one of us carries the imprint of his progenitors. The Hindu says: "Destiny is nothing but the actions committed in a previous state of existence"; and this is found true in the terrible law of heredity and solidarity of human beings!

The book of nature is the book of fatality; nature turns its pages, sheet by sheet, without ever going back. An iron circle binds and compresses the world, which obeys iron laws. All this is true, all this is terrible, all this explains the profound faith in a divine grace. But the man who struggles against destiny and sometimes vanquishes it is also the man of history; and Prometheus' sublime invectives express also the glorious vindication of free will. The Persian poet Hafiz says: "It is written upon the gate of heaven: woe to him who is conquered by fatality!"

As Descartes exclaimed with sublime conciseness: "I think, therefore I am," so the moral man, not degenerate, not insane, says after a fault: "I feel remorse, therefore I am free!"

We can, we must reject, since the later discoveries of psychology and statistics, the freedom of indifference, the whim of will. But how can we, studying man in history, exclude that essential freedom which sets a goal for itself, and after giving itself a moral command obeys, always and everywhere? Statistics may reveal the dreary uniformity of evil as expressed in the crimes of men, and this is an incontestible revelation; but not for this do the great assertions of free will grow dim.

"Go not to the Senate," said Vespasian to Elvidius Priscus, and the latter answered: "While I am a senator I must go to the debates." "Thou mayest go, but say not a word." "Ask not for my consent, and I shall keep silent." "I must ask for it." "And I must answer to thee what appears just to me." "But if thou speakest I shall have thee killed." "When did I tell thee that I was immortal?" [15]

Statistics cannot take in these internal emotions of the soul; and still, how many an unknown Elvidius Priscus goes through life, faithful to the religion of duty, suffering for the sorrows of others, whose actions we cannot gather because they did not leave an external trace like that which is left by the deeds of the wicked. But the moral world maintains its balance between this will, which does good, and the will that works evil. Nor are the statistics of good deeds collected with such precision and assiduity as those of evil deeds. Good deeds do not disturb governments, and for this reason they are easily overlooked.

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[15] This episode is narrated in Hadrian's *Dissertationes* (11, 19). The conclusion summarizes admirable examples of ancient wisdom. Telamon, speaking of the death of his son, exclaimed: *Ego, cum genui, moriturum scivi.* And Anaxagoras said: *Sciebam me genuisse mortalem.* (See Cicero, *Quæstiones Tusculanæ*, Book III, chap. XXIV.)

The statistics of good deeds would show as great regularity as those of bad actions. And at any rate who can make a numerical review of pure thoughts and victorious wills, which prevent evil, and of repentance, which cleanses and renews a soul with remorse?

Let us admit that the torrent of life and of time takes in everything in its rapid course. Man is dragged away like a little straw, a philosopher says. But between a piece of straw and a man, dragged away by the same current, there is this substantial difference, that the piece of straw does not think of showing resistance, while man feels that he could resist, and sometimes even tries to do it, even if ineffectively. The man who struggles against destiny sometimes vanquishes it and sometimes is subjugated by it; but victor or vanquished he has in this way played his divine tragedy worthily.[16]

We may admit that we are the products of the society in which we live, the automatic phantoms of biological necessity, we may admit that we are dominated by the fate of Spencerian evolution instead of the grace and predestination of the theologians; that the moral world is not distinguished from the physical world, that criminals are transformed into irresponsible beings, ill with hysterics, that a divine man who dies to redeem the earth has no more merit than his crowned contemporary, Tiberius, who plunges into foulness at Capri. All that can be admitted, and the day comes when a saint, an apostle, a redeemer, a demigod, God himself perhaps, appears to common men, to the Philistines of his time, to the representatives of the fatal, historical, crowd: breaks old habits and ancient laws, with his free will in conflict with everybody, announces virtue to be saintliness, the duties of the new era, and causes the spiritual life to blossom anew. He arrays himself against all and conquers all; even his disciples doubt this Buddha, this Socrates, this Christ, but his will is stronger than his sorrow at such denials. What a sublime encounter between fatality and liberty! There is something of the celestial light which illuminates the planets and draws them out from chaos in these prodigious beings who break the laws of history and statistics.[17] They are the real beacons of the world; but how many votive and inextinguishable lights shine in humbler places over solitary and unknown altars? We are the logical product of fatality and freedom; we feel in our conscience the tempter and the redeemer, the longing for worldly pleasure and the divine chastity of spiritual joys. This action and reaction of nature and thought, of fatality and freedom, is never ending; the great men prepare for the new times, the new times prepare the great men of the future. Fatality and freedom are eternal terms which cannot as yet be reconciled; we must confess that they exist and that our science fails to interpret and connect them.

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[16] See, among others, the writings of Schopenhauer, Hartmann and Fouillée, from which we draw inspiration without entirely adopting them.

[17] See Carlyle and Emerson. Spencer, who foresaw the irresistible power of this mystical test, would prevent it by holding the thesis that "before a great man may remake his society the latter must remake him." He is annoyed by the theory of the great man, the apostle, the inventor, the demigod and Carlyle's *Hero Worship*. According to Spencer, Cæsar would not have gained his victories without the Romans. But the Romans without Cæsar were beaten at the Trasimene by Hannibal, who did not have favorable conditions. Macaulay upholds the same thesis in his essay on Dryden, and forestalls Spencer in diminishing the influence of the great men who,

It has been said, "Just as every planet has its autonomy and is correlated with the system of the world, so is free will coördinated with general usefulness and the general laws of life." This is a splendid declaration, but how can it be proved? The uniformity and regularity of statistical law is on the one hand irrefutable; on the other hand we can perceive, according to the teachings of a philosopher, that the soul deprived of free will is like a body with all its organs intact but in which the heart cannot function without the aid of a stimulus outside of it. The theorems of moral law exist, but without freedom the motor of moral life disappears; everything becomes the work of nature, of evolution, of grace, of God, according to the philosophical or theological system to which we subscribe; and nothing is due to individual virtue, which vanishes, as does guilt, into the emptiness of a name alone.

Still, a nation with its constant statistical data is the effect of the individual free will of its component human units, which differentiate it from the others, and have created its customs; still the moral atmosphere

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according to these collectivistic theories, are the *parasites* of the society in which they live.

Surely not even the inventor is a spiritual asteroid fallen from the sky; his light shines at the opportune moment and is coördinated with its medium. But many ignore, disown and deny him. Here we allude not only to material inventions but also to the great moral, spiritual and religious discoveries which must fight different and more stubborn prejudices.

The history of all great inventions proves that the inventor had to vanquish immense obstacles placed in his way by the society in which he lived. When Watt perfected his steam engine he was in partnership with Dr. Roebuck, who advanced the funds necessary for the patent and who, when he was obliged to sell his share in the invention, saw it valued by his creditors at one farthing. (See Mallock, Labour and the Popular Welfare, p. 225.) Surely the sphere in which the inventor and his partner lived did not suspect that it was an advantageous business. And we may add that the greatest inventions made in the last century were made by men who had neither technical education nor scientific preparation.

The history of great inventors is full of lessons; the working people and the capitalists who used the old processes were against them, and the inventors were justified only by successful experiment. They vanquished the spirit of their surroundings, the industrial fatalism of their times.

Weismann discusses the question of the inheritance of talent and the accumulation of knowledge. If the Bach family shows us that musical talent can be transmitted from generation to generation, and the same was true of the mathematical genius of the Bernouillis, all this does not explain the origin of such talent and such aptitude. How many men of genius reveal themselves without predecessors? Or where their predecessors' latent germs of genius were in formation? (*Essais sur l'hérédité*, pp. 146-147.)

is improved and purified, and with religion and education the will is set on the road of goodness. If men were not free how could they reform themselves? If the sense of responsibility is removed from human conscience the light that guides the world would be extinguished.

Let us therefore confess it. We are powerless to solve the greatest mysteries of life. There are some who, to render them clear, suppress free will in order to save the force of statistics; and there are others who disown statistics to save free will. This procedure is highly unscientific; science cannot be made to advance if the real, immanent, sure forces of man are purposely excluded. Let us continue by all means to study statistics and psychology; but let research in the field of the good be undertaken with greater care, side by side with research in the field of the evil, and let us, in all phases of statistics and psychology, place the numbers that reveal the happy continuity of good deeds next to those which reveal the sad uniformity of wicked actions. New processes must be sought for investigating the uninterrupted and growing series of phenomena of moral integrity and the laws which govern them, for penetrating into the souls of men more than has been done heretofore, for surprising the unconscious modesty of virtue. To help our neighbor, to stand by the weak, to plan and to carry out the most delicate acts of benevolence, to educate, to redeem—all this ought to be submitted to the test of figures with greater diligence than has been used heretofore, and then we shall perhaps see how great is the spirit of good in its effects, how active is the will which fights freely against the spirit of evil. Psychology should by all means continue to study human consciousness in the silence of its solitude or in the din of historical events, with the aid of new methods derived from biological knowledge. The progress of statistics and of psychology—the accumulated treasure of so many other sciences—will perhaps reveal in the course of time the great mystery and will bring the happy news of the reconciliation of fatality with free will, or else they will compel the men of the future to invoke the mystery of grace with St. Augustine, or that of predestination with Calvin, after wandering as weary pilgrims in search of all the sources of science. Let us go on in our search fearlessly and unhesitatingly. Whoever increases knowledge increases sorrow, but without sorrow life would not be worth living.

Let us remember, meanwhile, that Lord Kelvin, one of the greatest physicists of our time, said about the mystery of creation, which is not completely explained by the theory of evolution: "All around us we have all-powerful proofs of a preëstablished, intelligent and benevolent design. They assail us with irresistible force, showing the influence of a free will through nature, and pointing out to us that every living thing depends on a supreme creator and ruler."

I should not have quoted these words if they had been uttered by a philosopher or a theologian, but they came from the lips of a free and unprejudiced scientist.

Schiller said: "Above time and space a sublime living thought works for good, and if all incessantly whirls in eternal rotation a peaceful spirit flutters through the whirlwind."

In the face of Buckle's crude and dismal doctrine, which suppresses morality and free will for the greater glory of the fatalism of statistics, we shall answer, until his theories be demonstrated, and then we shall bow our head: Never, never will the intellect possess a monopoly over the heart.

Since it has not yet been made clear, and perhaps will never be made clear, that morality is nothing but an empty word, that knowledge is everything, that this knowledge alone confers the power of domination over nature and over human passions, until all this is made clear, and with that grim proof heroism, the sense of divinity, art and poetry are forever buried, we must be allowed to err in the philosophical faith of our ancient forebears.

In order that Buckle's thesis might be proved there would have to be a demonstration of the fact that a world, an historical period, a country of learned criminals, are not possible, and that only science contains and matures among its fruits that of goodness also. Can we not dream of the combination in a single man of Nero's conscience and Newton's intellect? Who has proved that civilization derives its law from culture only?

Goodness and science appear to us, to our science which is not mystical but rational, as two distinct qualities; nor do we think that the necessary relationship of the one to the other has been made manifest, although this relationship does exist.

Concerning free will and grace, all perceive that man must act as if his will were all-powerful and at the same time have the attitude of resignation, as though this same free will had no power whatsoever. The highest ideal of men is contained in these words: Free and humble! [18]

Science and Faith [1]

HUMAN thought, after the bloody reactions of 1848 and 1849, distracted for some time from the cares of public life, turned, as if to make up for lost liberties, with greater impetus to the study of pure science and its applications, and obtained in a few years marvelous results.

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[18] Berthelot said at a recent gathering that "*la méthode scientifique consiste à tirer toutes connaissances de l'expérience en écartant le mystère des révélations.*"

Maine de Brian spoke in a loftier vein, it seems to us.

It was justly observed that if Renan had appeared, as an honored guest, at the banquet in honor of Berthelot, he would have repeated this lofty sentence: "*On ne prouve rien en attaquant la religion avec l'esprit positif, car la religion est d'un autre ordre; le sentiment religieux porte en lui-même sa certitude que la raison ne saurait ni fortifier ni affaiblir.*"

We cannot resist quoting another of Renan's observations: "*De ce qu'un gamin de Paris écarte par une plaisanterie des croyances dont la raison de Pascal ne réussit pas à se dégager il ne faut cependant pas conclure que Gavroche est supérieur à Pascal.*"

I am reminded here of the work of Arthur Balfour, leader of the Unionist Party in the House of Commons. It is entitled *The Foundations of Belief* (Longmans, 1895). For the support of our thesis see two notable chapters: *Belief and Formulas* (Part IV, Chapter II); *Science and Theology* (Part IV, Chapter V).

[1] This address, delivered on June 4, 1899, at the *Accademia dei Lincei* supplements that at the *Istituto Veneto* of 1876.

After the discoveries concerning the origin of species (1859), which coincided with the reacquisition of political liberty in various parts of Europe and with the triumph of the principle of nationality, science in the full splendor of glory declared itself, through the most advanced group of its worshipers, "universal and exclusive," conceived the hope of explaining the world of matter and of spirit by doing away with faith, and proclaimed itself, in the delirium of enthusiasm, at a famous convention, as "the sole divinity surviving in the deserted heavens."

In interpreting without restraint the observations of Darwin, who was no unbeliever, there came in process of creation a new natural philosophy, quite different from that which had sufficed Galileo and Newton for discovering and interpreting the great laws of the cosmos. God was relieved of the daily labors of creation, and man of the glorious burden of his moral responsibility. Just as, owing to a misinterpreted passage of Laplace,[2] the thought of a supreme organizer was described as an hypothesis no more necessary to the stability of the solar system, so, after the new researches concerning the transformations of the species, the hypothesis of a God was considered useless to the genesis and to the life of this world. Morals, because of determinism, excluding responsibility with free will, were breaking away from religion and metaphysics; an attempt was made to expel them from political economy, by boldly announcing the sufficiency of this discipline to correct the egoism of individual appetites, to draw probity from the wisdom of shrewd calculations, to identify virtue with profit. In short, the younger generation spoke of the failure of religion with the joy of neophytes assembled for the inexorable worship of truth, and therefore they wanted to punish religion for its complicity with absolute governments.

Already several protests had made themselves heard, temperate yet wise, against such infatuations of scientists, enamored of themselves; strong penetrating minds ventured to affirm the powerlessness of science to explain the mysterious riddles of origins and ultimate destination, and thus moderated the inordinate pride of the new systems of science which stimulated humanity to adore itself or dissolved it in the infinite vanity of nothingness.

Is it really true, wondered discreet minds, that man is now self-sufficing, and is climbing toward the summits of positive philosophy, persuaded that he molds and develops his God? And is that advice true, the advice of that great German humanist who, to mitigate the melancholy of such conclusions, incites us to meditate over Goethe and to become rapt in Beethoven's melodies, the equivalents of the lost celestial solaces? In vain did the most cautious suggest that it was not wise to deny that sort of sixth sense born of the divine and confirmed by the constant experience of history, i.e. the character of intuitive certainty, equal if not superior to scientific proofs themselves. They went beyond; the more violent clamored and seemed to think that they alone were entitled to speak, and applying materialism with its exclusive doctrine to history, they deprived it of every ray of idealism, despoiled it of the great moral and religious epics reduced it to an alternate game of interests, of economic actions and reactions.[3] One of the most illustrious of them was bold enough to show that when Socrates drank the hemlock at Athens, bequeathing to his fellow-citizens the heritage of an immortal idea, the victory of truth and of justice over perishable matter, and when Jesus died on Golgotha to redeem the sins of mankind, they unwittingly obeyed the preponderant influence of economic motives. The divine philosopher, the man-God, although they did not know the aims of unscrupulous speculators, favored them, and those sublime tragedies of history were only matters of business.

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[2] Shortly before his death, Laplace, informed that the new edition of his works contained the answer to Napoleon, according to which the hypothesis of a deity was excluded in astronomy, begged that it be suppressed. And Laplace had indeed wished to inform the first consul that the stability of the solar system was by this time demonstrated by mathematics, and not only through it but through it alone; and he returned (as Newton had done) to belief in the intervention of divine Providence. (See Faye, *Sur l'origine du monde*, 2nd edition, Paris, 1885, p. 131.)

Reaction could not delay; just like the political retaliations after the unchaining of revolutions, even this insurrection against the exultation of science was immoderate and overweening. Just as in politics the white terror follows the red terror, so to the failure of religion was opposed the imputation of the partial bankruptcies of science; then one dared speak outright of the total bankruptcy of science. An eminent French writer, Brunetière, devoid of knowledge of the natural sciences, on coming out of the Vatican in the first days of 1895 proclaimed the news of the failure of science among the ranks of the believers, who repeated this with infinite joy; as if the light of knowledge were to be extinguished in order that religion be revived, and truth die out in order to save sanctity.

We are hedged in, as one can see, between two bankruptcies, that of science and that of faith.

In truth, to judge things in the face of these rash assertions, which proclaim the failure of infallible ideas, such as God and science, it behooves us to declare in this Academy of ours that science has never raised itself to a more brilliant apogee, nor has it offered a more vital nutriment, and that religion, if we cast aside exterior symbols, has never flourished more than to-day in the human conscience, nor has it provided it with more essential and ineffable consolations.

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[3] Historical studies, owing to the influence (natural and too often disregarded in the past) of the "economic factor" have been rewarded in many of its divisions; the error that we combat against here, is in ignoring any other factor, and in bringing history under the sole dominion of economics, just when economics itself feels the need of assimilating "ethical" elements. For historical materialism religion is the result of dominating economic elements, and changes with them. Karl Marx expresses himself in the preface to the *Critique of Political Economy* thus: "The method of production in material life determines, in general, the social, political, and intellectual processes of life. It is not the conscience of man which determines his existence, but his social existence which determines his conscience." B. Croce, in discussing this subject with his usual profundity, would like to substitute for the "materialistic conception" the "realistic conception of history," and it is a just concept, inasmuch as it permits one to take into account *all* the factors that constitute the "reality of social life" and not only or almost exclusively the economic factors.

We are living in a fortunate epoch in which science is cultivated with the greatest fortune and the greatest intensity, in principle and in application, without any regard and preoccupation for religious or moral systems, with a spiritual sovereignty that knows no bonds of governments, of territory, of climate, of different races, moving about freely in every region of heaven and earth.

The astronomer that investigates and notices the perturbations of the planets at the Catholic University of Louvain proceeds with the same methods and instruments as the astronomer of Brera or that of the *Bureau des Longitudes* in Paris, and in the philosophical, religious, historical, and political investigations the same independence of research is used as in the natural sciences.

The method of observation and of comparison, aided by experiment, as is the case in physics and in chemistry, or, where it is not possible, in history and in statistics, overthrows all barriers, breaks down prejudices, overcomes timidity, arrives at the extreme threshold of the knowable without stopping there. Just as an unexplored land attracts the fearless traveler with the glamor of the unknown, mindful neither of perils nor of sacrifices, so, the more the mysterious is full of obscurity, the more it lures scientists on to penetrate it; the untried lures them.

Never did science enjoy more boundless liberty of research, so much so that even autocratic governments, if some of them still remain, respect it for practical reasons if not out of shame; the intention of curbing it by political censure or by theological inquisition does not seem possible to anyone.

New and numerous experiments, continual unexpected triumphs, lead to the most sublime heights of thought. In past centuries when great intellects prepared in the hours of studious solitude the miracles of future applications, science could not obtain the approbation and the protection of the multitudes; but to-day every one knows that there is no fruitless meditation, however lofty and inaccessible it may be.

As the poet has sung admirably: "A pure virgin idea awaits her spouse in modest silence and with trusting patience."

Neither has science biased tendencies nor is it spiritualistic, materialistic, religious or atheistic; if it must cope, without seeking to do so, with these problems, which constitute the eternal and distressing researches of religion and of ethics, neither does it regret to approve them nor does it rejoice in disapproving them. The errors, the deviations, the bad habits of the scientists must not be confused with the results of their investigations; scientists can sin, science is beyond sin.

It is what it is, it explores with sincerity and announces what it finds, and if after administering a consolation to the faith of mankind it is compelled to dispel it with bitter doubts or with a certainty even more bitter than doubt, unconcernedly it follows its way with that forceful calm which is the stamp of natural forces. Nothing profane or sacred can resist it that is in conflict with it; but without absolutely certain proofs it can accomplish nothing.

Let us see a famous example, drawn from astronomy, that is connected with these serious researches which join the divine providence of a Creator with the stability of our world.

The master intellect of Newton, after having discovered universal gravitation, noticed, side by side with the "periodical variations" of celestial bodies, depending upon their mutual attractions, and which concern only the position of the star in its elliptical orbit, the "secular variations." The latter touch the very elements of the orbit, alter its form and position. The genius of Newton succeeded in enclosing the "periodical variations" in cycles well defined by a continual return to their initial state. But to the function of the "secular variations" in the heavens the Englishman, who strove so much to reach them, could not with sublime calculations assign any compensation, and, distressed, he foresaw that from the admirable law of gravitation discovered by him, harmony of the created and glory of the Creator, would come the final catastrophe, because of the secular variations. And he spent the last years of his life meditating upon the apocalypse, hoping that divine goodness must have thought of correcting the effects of the perturbations! Leibnitz smiled at the mission assigned this "watchman of the heavens" as he called him, intrusted with the task of repairing the machine of the heavens, and from his system concerning the "preëstablished harmonies" he drew the conviction that the supreme organizer had established "from the very beginning" the perpetual conditions of the equilibrium of worlds.

However, since hope did not suffice science, geometricians inclined toward Newton's doubt, until Lagrange, Laplace, Poisson and other famous scientists showed mathematically that the orbits, despite the more or less ample oscillations of their elements, vary around a "medium state" without the harmony of the ensemble having to suffer in the least; immense pendula, which with their undulations strike the centuries, just as the pendulum of our clocks strikes the seconds. Then astronomers, among whom we find Litrow, in accord with theologians, began to make evident that the heavens, even through science, told again the glory of the Creator.[4]

But now that this topic has been subjected to recent study, one arrives at conclusions different and indeed melancholy. The calculations of those great men, which refer to the mutual attractions of planetary bodies, abstracted from other causes, are exact with the approximation that the most delicate research entails.

However, concerning the stability of the universe new investigations renew the gravest doubts relative to other "actions" which Henri Poincaré calls "complementary." [5] Suffice it to note that in late years the study of tides has become important, themselves also due to the mutual attraction of the bodies of the system, which would alter, by a kind of friction and of surface check, the time of the rotations (earth and moon in particular) and, by reflection, that of the revolutions, the form and size of the orbits.

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[4] See, among others, Angelo Messedaglia in the *Theory of Population*, from whom I borrowed material in this work, and to whom I am happy to repeat the homage of the faithful disciple; J. J. de Litrow, *Die Wunder des Himmels, Stuttgart*, 1853.

Let it be added that the light and heat of the sun are indispensable to earthly life, but must diminish, be it indeed very slowly, with time, and themselves come to an end. And there is everywhere a loss of living force or mechanical energy, caused by friction, without possibility of "inversion."

In short, life has not always existed on the surface of the globe, because its conditions have not always existed, and as its satellite, the moon, seems a dead star without water, without an appreciable atmosphere, without energy, that fear which is presented by the prospect of what may become of our planet is no empty one; which idea leads one to suspect that the final state of the cosmos is to be that of absolute quiet, even if it be at an infinite period of time hence!

We have returned, by other roads, to the tragic doubts of Newton, and one cannot be astonished if one returns to comment with greater interest upon the apocalypse, and to trust in the supreme patience and in the supreme goodness of a prime mover, who, giving his sanction to the optimistic hypothesis of Leibnitz, will allow a scientist of future centuries to discover other forces unknown to-day, with the purpose of restoring the equilibrium of the worlds.

Meanwhile, together with the uncontested and solemn triumphs of science, the religious feeling evolves, becomes purified and perfected everywhere; and there is no indication that it is weakening or dying. Its outward form, its symbolic integument is being modified, so to speak, but its vital content is more than ever ardent and active, under every look from heaven, even among the motionless divinities of Asia; [6] even they, in contact with Christianity, become better, purer, and feel the effects of the new times.

In this tragic struggle which is fought in each one of us between science and conscience, between determinism and moral liberty, between the mechanical laws of matter and the intuitions of the divine, except for the numerous exceptions that are deeply respected, people become each day more scientific and believe more. As with Newton, Leibnitz, and Darwin, the conflict between pure reason and practical reason, to speak after the manner of Kant, causes religion to flourish once again with continual renewals. It is the fissure in the rock from which spouts the living fountain of faith.

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[5] See an important article of Henri Poincaré, *Sur la stabilité du système solaire*, in the *Annuaire*, 1898, published through the *Bureau des Longitudes*.

[6] The self-evident proof is found in the reports of the World Parliament of Religions assembled at Chicago (1893).

In its incessant toil humanity builds to-day a temple, the two basic columns of which are science and holy living. They spring slowly from the soil and rise upward, parallel to each other, up to the sky.

You can see this double light of science and of faith reverberating in the soul of the greatest people of our epoch, the English people.[7]

This people is the most free, the proudest and most aware of its imperial mission; it spreads, like a flourishing youth of the world, into new lands, transforms them and places everywhere its scepter upon conquered matter. Never did a more boundless power come forth to human knowledge; it discusses everything with unrestrained freedom of examination. How much of the pride of the ancient Roman is in this race, which believes itself fit for and predestined to universal conquest! But, at the same time, how much humility and sincerity of faith; how much fervor in its discussion of even those ritual and liturgic questions which still should agitate believers less now than in the past!

A discussion in the House of Commons over that part of the Anglican clergy which favored auricular confession came near provoking a ministerial crisis.

Notwithstanding the philosophies and exegeses intent upon depriving the Bible of its sacred character, notwithstanding the prophecy of Voltaire that in the course of a century it would be a book entirely forgotten and out of spirit, the English missionaries are distributing it through all lands, translated into all languages, and one society alone circulated 155,000,000 copies of the Bible in the years between 1804 and 1899.[8] In the past few years thirty tongues were for the first time put into written form in order that the most savage peoples might be able to understand the Gospel. To-day, when the Holy Book should be closed—since the fatal time assigned by Voltaire for its extinction has arrived—we find it in the four corners of the earth, read and commented upon in hundreds of languages.

These restless modern societies, with the great light of knowledge and the joyful triumphs of natural and economic sciences, have not conquered anxiety; the sway of man over the universe does not make equal progress with his control over himself; grief issues forth from the modern fount of knowledge, as it issued from the ancient fount of ignorance, and there is a renewed need, a burning thirst for prayer, for recognizing in the Bible the voice of inspiration which breaks the silence between heaven and earth, and grants peace of mind and hope of heaven to souls oppressed by the increasing weight of knowledge.

At the Chicago Exposition of 1893 America with the arrogance of its wealth, of its marvelous technical innovations, of trusts and coalitions of capitalists, made a great display; and beside it, in front of it, I should venture to say, there assembled for the first time the World Parliament of Religions,[9] where the official representatives of all creeds expressed, in the name of hundreds of millions of souls, their belief in a Divine Power, finding its common interpretation, by a unanimous vote, in the sublime words of the Gospel.

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[7] We adhere to this opinion in spite of the *aprés guerre*, because all the nations erred in mind and heart!

[8] In the address of 1876 there were 76 million.

What stupendous progress, what renewal of customs, how many beneficent influences of science and of political freedom over this world of God, which might otherwise appear inaccessible!

Men accustomed to hate one another, and perhaps to exterminate one another in the name of God, considered themselves worthy of examining, in surprising harmony, the character and the qualities of their various creeds, and were moved to tears as all together they recited the Lord's Prayer.

The brotherhood of all religions, their vital competition in the conquest of heaven and in striving for it in free controversy, replacing the old Inquisition; the common conclusion that the intensity of faith resides in the intensity of good deeds, in the obligation of solidarity between fortunate and wretched, between celestial and spiritual communion, where the distance in the idealities of redemption disappear: all that was said and was done with simple openness.

In the vast halls of the Chicago Exposition psycho-physics, natural science, history and philology had used all their titanic efforts to enlarge the world of the knowable, to exclude mystery. In the Parliament of Religions the divine mystery reappeared in its mystic solemnity, and that same American who knew all and could do all was assailed by the irresistible need of humiliating himself in prayer.

There, in the full and most triumphant manifestation of science and of wealth, those who were its principal authors, thronging at the Parliament of Religions, had to confess that from all the holy books of believing mankind a gentle note is released, which grants the most potent remedy to the greatest public and private evils, the note of charity and of love for one's neighbor; love that is meek, universal, mad, nay violent in its mercy. There it was declared that the highest science is in religious and moral preaching, better fitted to instill this love in hearts. And it was acknowledged, in this new form of ecumenical council, that no progress can exempt us from invoking with the "Poor One" of Assisi, so loved, studied, and tolerated to-day, the holy charity of God, that greeting of humble virtues more beautiful still than the *Hymn to the Sun.*

The man of our day, issuing from the tumult of public life, from the breath-taking researches of laboratories, tastes the delight of solitude in order to cause the "word" which flowed with admirable simplicity from the lips of the great saint to penetrate into his soul. "*Pura sancta simplicitas confundit omnem sapientiam huius mundi et sapientiam corporis.*" Love, forgiveness, humility, sacrifice; to-day more than ever mankind, that seeks all, learns all, has an unquenchable thirst for these sublime weaknesses. And the book of Sabatier on Saint Francis of Assisi, "who prays God for those who pardon out of love for him," like the Bible, is also translated into various languages, moves all civilized peoples, even those who believe not in saints. One would say that idealism experiences the necessity of making itself more intimate, more religious, in order to compensate for so many victories of scientific reality and, particularly, feels most acutely the need of the holy purity of works.

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[9] See the official proceedings, in two volumes replete with matter of vital interest.

The contemplative orders of Catholicism are giving more and more precedence to those working for the welfare of their fellow creatures; the nun at the bedside of the sick man is its most pious expression. Faith to-day has taken possession of all the most precise instruments of the natural sciences and political economy, and uses them in its own way for the alleviation of the woes of suffering humanity by creating an admirable network of social institutions, and by substituting for charity, wherever possible, foresight, condemned in times gone by. What blasphemy in the declaration of its failure! Purged of ancient biases, more and more free from intolerance, revived by liberty, it imposes its new victories everywhere. And if in the past it came from ignorance, to-day it does not deny science; to-day humanity, after having studied and learnt everything, experiences most sharply the desire of prostrating itself; the sense of the divine goes hand in hand with positivism, as has been shown, in the same countries, in the same consciences. It seems as if the human soul, with admirable contradiction, gains strength for new scientific discoveries from the ignorance of mystery.

In short, mystics are becoming active and no longer forgive one another, in the lively atmosphere of our times, for the barrenness of meditative solitude; the studious, ravishers of the most hidden secrets of nature, feel the need of hours of solitude to seek strength in idealism; they understand perfectly that profound judgment of the eminent physiologist Carus, whom Hartmann extols for his work on the manifestation of the Unknown in the human soul: "The secret which must explain the spiritual essence of conscious life is found in the region of the Subconscious." [10]

We must say it boldly, the strength by which superior peoples are induced to study, to explore the mysteries of nature and of the spirit, to work and to produce, is hidden in a mass of high qualities which constitute the stamp of national character; the sentiment of duty, of dignity, of the final destination of man, plays a very important part in it. Question these cultured and industrious peoples, that they may disclose the secret of their prosperity; they will answer you that the present greatness, the future one to which they aspire, resides in the fact that they associate with the cult of science and of labor strength of mind, a mysterious feeling for the ideal, which free thinkers may call duty and which more simple-minded peoples call their God.

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[10] See the famous work of Hartmann on the philosophy of the unknown, from which I borrow also in other chapters. Likewise I drew inspiration in various places from the works of Caird, Kidd, Paul and Auguste Sabatier, from the reports of the British Society for the Circulation of the Bible, etc.

With the same gesture with which they express the pride of the intellect, which analyzes matter and explores its most hidden fibers, they exclaim: "Blessed are the meek."

And while the most complicated and elegant products of industry come from their factories they read and still understand the pages of a book which, by contrasting the artificial work of man with the simple work of nature, invites one to gaze upon the lilies of the valley, which do not toil and do not spin, while no potentate, in the splendor of his glory is arrayed like one of them.

Speaking in this fashion I neither discuss nor defend a thesis, I merely expose the "state of mind" of more select peoples, which manifests itself in the powerful duality; a state of mind which does not admit of contradiction, and is the most evident proof of the inextinguishable splendor of science and faith. These forces are not in conflict among those superior nations, but complete each other and aid each other mutually.

Spencer,[11] in examining this duality, observes that if we consider science like a sphere which gradually grows larger we can say that its increase in size multiplies the points of contact with the unknown which surrounds it. This unknown is another limitless space, if we can say so, situated beyond science, and the more the sphere of science grows the more does the unknown appear infinitely large. From this we draw the conclusion that if science cannot "monopolize conscience," if the spirit has the innate quality and the natural need of examining what goes beyond science, there will always be a place for religion, for the ideal, for metaphysics, since religion, as Spencer observes, refers to things that go beyond the confines of experience. Whenever one examines the formidable controversy, disregarding popular prejudices, one is compelled to conclude that religion is "present everywhere like a woof in the weave of the history of humanity."

Therefore the more the sphere of the known broadens, from what we know, the more in general, and even in greater proportion, the region of the unknown has broadened, from what remains still to be known. Nay, as a result and through the stimulus of science the sentiment of the unknown has become sharpened and its concept has increased in importance; the mystery has been traced from "a loftier source," but it has become still more sublime and immense, if one can thus express one's self. For even the sphere of the knowable can appear unlimited, but it is always finite; that of the unknowable is lost in infinity.

The concept of the unknowable is always correlative to the one which we form of science and of its own methods of investigation. In speaking of science, which calls itself "positive," with its basis of observation and of experiment, the unknowable must begin at that point (however advanced) of research and discovery in which the natural incompetence of the methods themselves is recognized. Here the field reserved for purely ideal speculation develops itself with infinite undulations; sentiment and faith have their place in it and are explained freely. In all the stages of life and culture the latter has appeared hitherto a moral necessity, and not necessarily in conflict with positive science, as has been seen. The conflict arises in the rash denial of science and faith, which find their common *raison d'être* in the unity of life, although the way of their reciprocal action is still unknown. Meanwhile even one of the boldest, Spencer, compelled out of fidelity to the method of observation, which makes the natural permanence of the religious feeling certain, understands, in his way, the ideal of faith in an attitude of mystery and of veneration before the altar of the "Unknowable"!

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[11] See *Principles,* Introduction.

The truth is that if the two immanent forces, science and faith, are preserved intact, "from their necessary relations," we must say with wise modesty: "We do not know." But the other cry, "We shall not know," would be too cautious and too submissive.

We do not know to-day, but why shall we not know to-morrow?

The work of the conciliators is artificial, but at least it conceals a glad hope. Can the apparent conflict between spirit and matter, between religion and science, be won? If changed to harmony can this harmony rise to the dignity of scientific principle? We do not know! We know already enough to exclude the possibility of such a reconciliation in those systems of materialism which deny the soul, or of idealism which deny matter. At least we know this much, that we cannot consider the spirit as an appearance without substance, as the resultant of certain combinations of the blind forces of nature, as the Æolian harp of the Greek materialist, whose divine notes, reflection of the human soul, broken though it were, were dying out forever!

Matter cannot in turn be an appearance without reality, united with the subjective dispositions of the conscious spirit, which gives it form, figure, and color.

To us, to our science, not mystic but rational, scientific knowledge and the religious sentiment seem two essentially distinct qualities; it has not yet been shown in what relation they are to each other, although there must be some relation. And we still repeat deliberately that to give up one's life for one's God or for one's country in a supreme act of free will seems quite different from the decomposition of a substance into its original elements by chemical analysis or from the search of the position of Uranus in the heavens!

Still every one feels that a holy sage, the type of Socrates and of St. Paul, represents perfection; *Lucere et ardere perfectum est.*"

A people, through an inevitable state of circumstances, is composed of much ignorance and little learning, and it would be imprudent to assert that the patrimony of moral and religious feelings, which puts them all into a single common family and makes them all palpitate with the same conscience, represents, as Buckle says, "an order of inferior phenomena, subordinated to the immanent and dominant laws of knowledge."

True science is neither so rash nor so inexorable, while it crosses serenely those immense unexplored fields which belong to it, and keeps the region of moral and religious sentiments unmolested. Hitherto mind has not penetrated the mystery of creation, but pushes it off, and loses sight of it, leaving it, as it were, more mysterious than ever; although it obtains admirable results, by clearing away the dense mists of prejudices and intolerance, it only succeeds from the most radiant heights of truth in recognizing how great its ignorance is!

Notwithstanding the harsh criticism of all positive doctrines we can still confidently await a philosophy of history which does not repudiate any fundamental hypothesis of human nature, but discovers and fixes the secret harmonies which must join the good with truth, free will with statistical order, faith with science.

It is fitting to wish that there may arise, when the times which we shall not see are ripe, a master mind, a wizard in natural and philosophical sciences, capable of synthesizing brilliantly the moral and material world. This new Aristotle will place before the human mind a concept of the universe able to bring harmony between the evidences, the perception of matter and its laws and ethical intuitions and the highest necessities of faith.

In expectation of this sovereign intellect we continue to look for truth, to believe in goodness, to convince ourselves of the mistake of those who affirm that the only elements of happiness and of human greatness are scientific, and not religious. Both are necessary for us; the intense, continual, fervent worship of both is hardly sufficient for the unsatisfied longings of our modern society, sick with doubts which arise out of knowledge, athirst for ideals that are badly appeased by faith.

And in that manner in which, face to face with the problems of free will and grace, man must work as if his will were all-powerful, without being daunted by the sublime virtue of resignation, as if he could do nothing against it, so may the divine mystery radiate from the light of science, and the ineffable consolations of heaven be drawn from it!

ON DARWIN'S PHILOSOPHICAL AND RELIGIOUS IDEAS[1]

ENCOURAGED by Professor Blaserna I have asked the hospitality of the Section of Physical Science, because I desired to speak to you of Darwin's philosophical opinions, as they were developed under the influence of his doctrines in the realm of natural science.

The mind of a great scientist is like an admirable polyhedron, the facets of which correspond by rhythmic harmony with each other, especially those which reflect the doctrines concerning nature and the Deity.

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[1] This address was published in the *Rendiconti della classe di scienze fisiche all'Accademia dei Lincei* (First semester, 1900).

We need not wonder if they vary by reason of an evident correlation, as was the case with the great soul whose innermost recesses it is my intention to search to-day.

My academic address on "Science and Faith" had the good fortune to stir the camp of intolerant believers and of exclusivist scientists, and I was taken to task because, it was said, I had tried artificially to increase, both in the conscience of men and in their institutions the task of religion. I had said that Darwin was a believer and that too many denials had been derived from his doctrines. According to some critics I should have said that Darwin was an atheist, according to others, that he was an agnostic; and I was also told that he had removed the invocation to the Creator—as resounding as the winged stanza of a hymn—from the last editions of his *opus magnum* on the origin of species.

As was my duty to this Academy I desired then to submit to a thorough examination the evolution of the great naturalist's philosophical soul, and to accomplish my task not only with the utmost diligence but also with calmness and with that veneration with which the mystery of a superior conscience ought to be explored.

I should have hit the mark if my affirmations had stopped with the examination of the principal work to which I had devoted myself. In fact six editions of the *Origin of Species* appeared under Darwin's supervision; the first in November, 1859, the sixth in January, 1872. In all these six editions the following philosophical and religious quotations from Whewell, Butler and Bacon are to be found at the beginning of the book.

Whewell's passage, in the *Bridgewater Treatise,* is as follows:

> But with regard to the material world we can at least go so far as this—we can perceive that events are brought about not by insulated interposition of divine power, exerted in each particular case, but by the establishment of general laws.

Butler says, in his *Analogy of Revealed Religion:*

> The only distinct meaning of the word "natural" is stated, fixed or settled; since what is natural as much requires and presupposes an intelligent agent to render it so, i.e. to effect it continually or at stated times, as what is supernatural or miraculous does to effect it for once.

Finally, Bacon supplies Darwin with a third aphorism taken from the *Advancement of Learning:*

> To conclude, therefore, let no man out of a weak conceit of sobriety, or an ill-applied moderation, think or maintain that a man can search too far or be too well studied in the book of God's word or in the book of God's works, divinity or philosophy; but rather let men endeavor an endless progress or proficience in both.

In all these quotations, never removed from the volume, there shines the idea of an order which works in nature through fixed and constant laws, and the longing for infinite meditation on the word and works of God, perennial aliment of true wisdom!

Here Darwin's mind becomes interrelated with the supreme teachings of a conscious and intellectual factor. And in all the editions of his work, contemplating in a marvelous *finale* the discoveries on the origin and variations of species, he concludes, abandoning the severity of measured words:

> Thus from the war of nature, from famine and death, the most exalted object which we are capable of conceiving, namely the production of the higher animals, directly follows. There is grandeur in this view of life, with its several powers, having been originally breathed by the Creator into a few forms or into one; and whilst this planet has gone cycling on according to the fixed law of gravity, from so simple a beginning endless forms, most beautiful and most wonderful, have been and are being evolved.

One seems to hear the voice of the Psalmist, and in Darwin's words so admirable a creation tells the glory of the Creator!

Even in the work on the *Descent of Man*, published in 1871, when the torch of the theist was consumed, and the agnostic was breaking forth, the author admits that "the idea of a universal and beneficent Creator does not seem to arise in the mind of man until he has been elevated by a long-continued culture." He strives to defend his conclusions that are so bold and so humble at the same time, and according to them we are able to recognize in the darkness of the past our remote first ancestor in a water animal supplied with gills and having the two sexes united in the same individual which, fortunately for the ideal beauty of the human species, is not yet proved.

These conclusions do not seem irreligious to Darwin:

> Why [he asks], is it more irreligious to explain the origin of man as a distinct species by descent from some lower form, through the laws of variation and natural selection, than to explain the birth of the individual through the laws of ordinary reproduction? The birth both of the species and of the individual are equally parts of that great sequence of events which our minds refuse to accept as the result of blind chance.

Very well, we say, for these last essential considerations; therefore the human mind opposes to blind chance a natural order, a natural philosophy, an ordaining Mind!

But to-day we try to find in private correspondence, in intimate confidences and in open-hearted talks the essence of the soul of great men. We investigate fiber after fiber, if we want to reach the ultimate root which is the natural temperament.

Now from Darwin's autobiography and correspondence, published in three volumes by his son Francis,[2] who seems to have inherited his father's scientific mind, from the one volume condensation, and from several other sources, some pure, some biased, the great naturalist's philosophical ideas can be better known. It is not unnatural that the various writers, assuming either a religious or irreligious point of view, strive to draw Darwin to their orbit. Every one desires to lean upon the authority of such a celebrated man.

It may help our contention to give some examples which are not useless and are strictly connected with our theme.

The answer given by Darwin in a letter dated June 5, 1879, to a young student of the University of Jena who had asked him for his ideas on the divine order and the correlation of that order with the new doctrine of the origin of species, stirred up believing England, which means nearly the whole of the population of that country, which likes to see its great men keep their allegiance to the paternal God. Ingleby declared in the *Academy* that the German translation of that letter as published by Haeckel was faulty, in that Darwin's thought was interpreted as follows: "I do not think that there was ever a revelation in regard to a future life." Haeckel was naturally happy to be able to send the English text which said clearly: "Science has nothing to do with Christ; as for me I do not believe that there was ever a revelation. In regard to a future life every one can judge for himself amidst the conflict of vague probabilities." The English newspapers, except two, took care not to rectify the first version. The Anglican spirit with its narrowness not infrequently reaches through liberty a kind of *Index* of forbidden ideas. Thus if the believers were inclined to minimize his unfaithfulness to Christianity, or at least to pure theism, the materialists, the pantheists and the Democriteans, who attribute the universe to chance, strove to increase it. Büchner and Aveling went to visit the hermit of Down in his peaceful country residence. Aveling, who was intimately associated with Karl Marx and was intent on applying to history that struggle for existence which Darwin had discovered in nature, published the conversation of the three men in 1883 after Darwin's death, in a pamphlet entitled *The Religious Views of Charles Darwin.*

The atheist Aveling exults in demonstrating that Darwin's agnosticism was practically equivalent to his own atheism. But Francis Darwin, who certainly has no prejudices of any kind, declares that Aveling's deductions and arguments are exaggerated. Aveling and Büchner rose to fight against God while Darwin, who in his youth was an ardent advocate of Christianity, never sought to banish religious ideas with cruel joy.

The wise men who in obedience to their inner convictions cease believing in and abandon the God of their forebears are sad; they sigh for the ingenuous faith of their early years, and they are far from showing the bold exultation and braggartism of men like Aveling and Büchner.

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[2] *The Life and Letters of Charles Darwin including an autobiographical chapter.* Edited by his son Francis Darwin (three volumes, London, 1887, John Murray). The work was reduced to one volume by F. Darwin himself (Murray, 1892).

The truth is that Darwin hesitated in those moments in which, not through spontaneous choice but compelled by the indiscretion of others, he reasoned about the Deity. Never, and I could prove it, did he take the initiative in similar discourses. If Aveling caught him in so resolute an agnostic attitude, the Duke of Argyll gives us quite a different story.

That nobleman, conversing with Darwin about the fertilization of orchids, the lumbrics and other things, revealing marvelous adaptations and designs of nature, observed that it was not possible to think of all that without recognizing in it the effects and the expressions of a supreme mind. The Duke of Argyll, who was a scholar and scientist incapable of distorting the truth, declares that he would never forget the answer given by Darwin to his observation: "Yes, yes, this thought assails me often with omnipotent force; but at other times," and he bent his head, shaking it, "at other times this thought disappears."

In the same way, answering Miss Wedgwood, he alleged his incompetence in metaphysics to follow her in religious and philosophical discussions, concluding that the mind refuses to consider this universe of ours as it is, without an order, without a plan, but the more he thought of it the more he found himself unable to gather the proofs.

He fluctuated in the great sea of existence. Now he derived the universe from chance, now from a creative design; this not seldom happens to superior minds. Goethe summarizes his own ideas as follows, answering a favorite disciple who questioned him about his religious ideas:

"When I think of art I am a pagan; when I am confronted by the problem of nature I am a pantheist, and when I meditate over the moral principle I go back to the old God of our fathers."

He needed all these sublime notes to express what was agitating his Olympic mind.

In fact, who can boast of being coherent in the solution of these terrible problems throughout all the hours of his terrestrial journey, through the various phases of scientific and moral life?

The great doubts expressed by Goethe, Darwin, and other similar chosen spirits, must be worth more, even in the sight of God, than the supine faith of nondescript individuals who accept the religion of their fathers blindly.

But to go back to Darwin, it seems to me that the phases through which his religious and philosophical thought passed may be summarized in the following manner.

When he was a young undergraduate at the University of Cambridge he was on the point of becoming a clergyman, yielding to the influence of his father, who desired him to take orders. He asked for time to think the matter over because, sincere as he always was, he was not sure he believed all the dogmas of the Church of England. He read with intense delight the religious books of Pearson and Paley. The latter's volumes on the proofs of Christianity gave him the same pleasure that he found in studying Euclid's geometry.

On board the *Beagle*, when he sailed at twenty-two years of age for his great scientific exploration, he was still an orthodox believer; several officers, while they were not unbelievers, derided him for the fervor with which he invoked the Bible as an infallible authority in the matter of morals. Little by little he abandoned the Old Testament and his belief in miracles. The last book which he forsook was the Gospel. He was still a theist; but how different from that one who, in the midst of the Brazilian forests, worshiped silently the majesty of God!

Later the inexorable investigator will dare to analyze this sentiment, full of celestial mysteries, and will be persuaded that it resembles the sense of sublimity, the effects of great music.

The thought is intolerable to him that the human species, which will be even more perfect in the future, must one day be annihilated with all the other living beings. He cannot believe that the wonderful universe is a product of chance, and that man with his creative and accumulative faculty of looking forward and backward also owes his existence to blind chance. Thinking of all this he is led to consider the necessity of a primal conscious cause; and he deserves to be called a theist.

Such he was still when he wrote the *Origin of Species.* Then he was assailed by tragic doubts. The very spirit of man was the development from inferior beings with inferior souls. And the mystery of the beginning of things, the travail of a mind occupied by such powerful research, gave him a sort of philosophical serenity which resolved itself into a benign agnosticism, full of doubts but not aggressive, and his intellectual habits diverted his mind from metaphysics. *Ignoramus*, and perhaps *ignorabimus!* And he went back to study nature, with which he lived in intimate confidence.

A new fount of research opened up after the death of the great naturalist to illuminate the recesses of that powerful mind. The intellectual and devoted wife of George Romanes wrote and published a few years ago a remarkable volume on her husband's life and letters.[3] She was one of those ideal women, of a type frequently encountered in England, who beautify with intellectual life the home of a scholar and scientist.

Romanes, who was also a great naturalist although not so great as Darwin, surpassed the latter in philosophical and religious studies, which were forsaken by Darwin when he gave himself up to his immortal researches.

Romanes was, like Darwin, full of faith in his youthful years, but he also saw that faith fade little by little under the weight of the new doctrines. He, however, went back to Christianity in the later years of his life with an ardor that inflames and uplifts him. His soul could be likened to the rose of our poet, which bends its head under the whirlwind of the Darwinian theories and then lifts it up through its own virtue.

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[3] *The Life and Letters of George John Romanes*, written and edited by his wife, new edition, Longmans, 1898.

On another occasion I shall tell the story of the religious evolution through which this high intellect passed, in accord with his scientific evolution, continuing a series of researches which I have undertaken on the philosophical souls of the greatest naturalists and astronomers. Meanwhile we can examine, with the help of Mrs. Romanes' admirable book, the conversation of those two great minds.

Darwin, always sincere and powerful like the forces of nature which he studied with so much fervor, wrote to Romanes to congratulate him on the appearance of his book, which had been published anonymously in 1876 under the title of *A Candid Examination of Theism.*[4] It was a strong indictment of the divine principle, the most inexorable and most formidable criticism that I know, which was disowned and refuted by its author in the last years of his life. Darwin declares himself enamored of this work, some parts of which he read several times, but confesses that he could not always follow it in the matter of metaphysical terminology.

> For the sake of outsiders [he writes to his friend] if there should be another edition, could you make it clear what is the difference between treating a subject under a "scientific," "logical," "symbolical," and "formal," point of view? With regard to your great leading idea I should like some time to hear from you verbally (for to answer would be too long for letters) what you would say if a theologian addressed you as follows:
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> I grant you attraction of gravity, persistence of force (or conservation of energy) and one kind of matter, though the latter is an immense admission; but I maintain that God must have given such attributes to this force, independently of its persistence, that under certain conditions it develops or changes into light, heat, electricity, galvanism, perhaps even life.
>
> You cannot prove that force (which physicists define as that which causes motion) would inevitably thus change its character under the above conditions. Again I maintain that matter, though it may in the future be eternal, was created by God with the most marvelous affinities, leading to complex definite compounds and with polarities leading to beautiful crystals, etc., etc. You cannot prove that matter would necessarily possess these attributes. Therefore you have no right to say that you have "demonstrated" that all natural laws necessarily follow from gravity, the persistence of force, and existence of matter. If you say that nebulous matter existed aboriginally and from eternity with all its present complex powers in a potential state you seem to me to beg the whole question.
>
> Please observe it is not I but a theologian who has thus addressed

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[4] Physicus, *A Candid Examination of Theism,* third edition, 1892 (Kegan).

> you, but I could not answer him. In your present "idiotic" state of mind [he was engaged to be married] you will wish me at the devil for bothering you.

Romanes answers him:

> The only question is whether I have been successful in making out that *all* natural cases must reasonably be supposed to follow from the conservation of energy. If so, as the transmutations of energy from heat to electricity, etc., all take place in accordance with law, and as the phenomena of polarity in crystals, etc., do the same, it follows that neither these nor any other class of phenomena afford any better evidence of Deity than do any other manifestations of nature. Therefore, if all laws follow from the persistence of force, the question of Deity or no Deity would simply become the question as to whether force requires to be created or is self-evident. And if we say it is created, the fact of self-existence still requires to be met in the Creator.

Although we have here a case of sovereign and truly privileged minds one should feel inclined to smile before such powerful and keen reasoning, judged irrefutable by their authors. We have only to think of the fact that in 1873 George Romanes won the Burney prize at Cambridge for a work of his entitled, *On Christian Prayer in Relation to the Belief That the All-Powerful Governs the World with General Laws*, published when the author was twenty-five years old and of an exuberant faith. Two years later he wrote his essay against theism, published anonymously in 1876. In 1885, in his lectures on Mind and Motion [5]—remarkable indeed and opening new roads to physiological psychology—he is opposed to the materialistic doctrine and searches unity, *monism*, in the hypothesis that mind and motion are "coördinated and probably connected aspects of the same universal fact." Finally, in 1889 [6] he criticizes his own refutation of theism, to end with a pious and voluntary return to the Christian faith.

When did the great mind err? When was he right?

It is certain that after investigating everything and knowing everything, and doubting every doctrine, no human lips have uttered with greater fervor these words:

Fecisti nos ad te, Domine, et inquietum est cor nostrum donec requiescat in te.

But the return to God did not happen through Darwin!

I have often wondered what would have happened if, instead of dying in the hour of his triumph, Darwin had been present in the hour of discussion and decline of some hypotheses and doctrines which were very dear to him. Between 1860 and 1880, under his preponderant influence, human minds were assailed by tormenting doubts. Evolution is to-day distinguished from Darwinism,[7] but from the first publication of Darwin's book until his death the two questions tended to be confused.[8] Darwin had exonerated God from the labor of creation; Spencer had built up a system capable of explaining in a natural way both matter and the human mind; and German critical philosophy completed the negative and destructive work with the hammer of erudition. It was an intoxication of reason, the renewed assault of the Titans against heaven![9]

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[5] George Romanes, *Mind and Motion and Monism*, Longmans, 1895.

[6] George Romanes, *Thoughts on Religion*, fifth edition, Longmans, 1895.

If it is true, according to Darwin's assertion, that evolution is the effect of a series of caprices and slight accidents, that in an infinite period of time in which all combinations are possible great changes can occur, even man and his mind can be created in consequence of the infinite rotations of matter, then the supreme ordinator of the world would cease to be, with all that is supernatural. Of what avail, for minds affected by such a degree of pride, was the fact that Darwin himself advised prudence, declaring he was frightened by the conclusions of some of the noisiest among his disciples of the type of Haeckel, when the opinions of the prudent ones such as Du Bois Reymond and Virchow, who recommended caution, were no longer heeded?

The theories and experiments of Mivart, Nägeli, Köllicher, Driesch, Bütschli, Hertwig, Weismann,[10] Blanchard, etc., the writings of Roux, Naudin, Haacke, Gaudry, Delage, Dantec, the Duke of Argyll, Stoppani; the exceptions themselves of Wallace, Huxley, Spencer, etc., have rectified and corrected many parts of Darwin's theories and tend signally to restore to matter some of its specific properties which can be developed but are not created in the external struggle of life and the fortuitous accidents of the sphere in which we live.

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[7] About the substantial difference between Darwinism and evolution, the following works can be usefully consulted: an article by Herbert Spencer in the *Nineteenth Century* of 1895, p. 752, against the famous address with spiritualistic tendencies delivered by Lord Salisbury at the Oxford Congress of the British Association (1894); two notable articles by the Duke of Argyll entitled "Mr. Herbert Spencer and Lord Salisbury on Evolution" (March and April, 1897) published in the *Nineteenth Century*; an answer in the same review (May 1897) by Herbert Spencer, "The Duke of Argyll's Criticism."

[8] "For Darwin men were more generous than facts," affirmed Professor Moleschott in the Darwin commemoration in Rome.

[9] That was the period when even the most powerful minds delighted in accusing nature of the greatest imperfections, thus indirectly opposing the idea of an ordainer of it; those who believed in His existence rendered Him responsible, without perceiving it, for the faulty design of organisms. Helmholtz said in 1868 at Heidelberg in a celebrated lecture, reasoning regarding the adaptation of the eye to vision:

"With an optician who should deliver it to me impaired by such defects I should feel myself perfectly authorized to refuse to accept his work and to accompany my refusal with the harshest expressions."

But Helmholtz could spare himself this *boutade,* by correcting the natural defects of the eye, because his Aristotelian mind itself was a genuine expression of that intellectual ideality which appears as a pale reflection of divine wisdom and grants a faint conception of it.

Rousseau said on the contrary that everything is perfect in nature, and everything is spoiled by the act of man, strangely exaggerating on the other side.

And Helmholtz himself, as a physiologist, desired to preserve for a long time his vision, the eye being truly admirable in its structure.

[10] See Romanes' notable work on Weismann: *An Examination of Weismannism,* Longmans, 1893.

The eminent botanist Nägeli published in 1884 his work entitled *Mecanisch-physiologische Theorie der Abstammungslehre.* A substance which he calls "idioplasm," which acts through internal causes and contains in itself the force of variation and the principle of improvement, is opposed to the influence of external conditions and the struggle for existence, which in his opinion have not a decisive action upon the development of organisms.

Weismann, in his *Essais sur l'hérédité et la sélection naturelle* (1892) and in *Das Keimplasma* (1893), explains the formation of the species by a germinative plasma, from which all the phenomena of variation and heredity arise, distinguishing the somatic cells from the germ cells.

William Roux in bio-mechanics transfers the struggle for life and natural selection from Darwin's external field to the interior of every being, with the struggle of the various parts of the same organism and with the morphogenic action of the functional stimuli.

Naudin observes that nature has not proceeded in the creation of species in a manner different from that employed by men to create variety, or rather it is the process of nature which we have carried on in our practice. Naudin's hypothesis excludes Darwin's natural selection and the change from an apelike form into a human. Köllicher opposes the theory of natural selection because the gradual passage from one species to another is not proved. Palæontology has not discovered the intermediate forms between the various species, and there is no knowledge of varieties which are as durably unfertile among them as the species.[11] And I could continue this exposition if time permitted.

I can hardly claim authority to discuss these questions which some eminent colleagues of ours, among others Todaro and Grassi, have examined to the honor of Italian science.

It is certain that, without daring to say it, because even science has its prejudices, especially when there is a suspicion of concessions to religion, we are coming to recognize the value of internal causes in the process of evolution, making them agree with external causes from which—according to the just conclusions of Todaro and Grassi—they must never be separated.

Grassi deems irrefutable the position taken by Nägeli, who does not confuse the gardener, who obtains at his pleasure leaves and fruits from the pruning of a tree, with the intrinsic qualities of the tree, which give, according to the work undertaken, these leaves and these fruits, in the same manner that the heat which transforms the egg of the hen into a chick cannot be confused with the intrinsic quality of the egg. The heat is the condition which transforms the egg but it does not confer the qualitative essence upon it.

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[11] See a clear review of the *History of Evolution* by Fenizia, and Cattaneo's *Embryology and Morphology*, both published in Milan (Hoepli). After my essay, read at *Accademia dei Lincei,* the discussions on this vital topic were renewed with great force. (See Appendix XI.)

We have again fallen into metaphysics, from which we are never free. We depart from it as much as possible but we find it again in our way!

Briefly, how much doubt, born from science in our day and not from faith, do we find around the Darwinian theory, according to which nature would not be the formative power of the organs in regard to vital functions, and the vital functions in regard to the needs of the living being, but the needs of this living being create the functions and the functions create the organs.[12]

Leaving aside these arguments against Darwinism, taken from physiology, we observed that embryology, the hybrids and geology do not find in fossils the proofs of the infinite gradations which should have served as intermediate links for the passage from species to species.

If Darwin had lived long enough to be present at the refutation of a part of his doctrines, would he not have gone back to his youthful studies on the divine design of nature? Or at least, would he have excluded it *a priori,* as happened to him in some parts of his life?

And that good and pious man, a saint of science, who until the last days of his life went, admirably simple and charitable, to the church of the little parish of Down, not to pray but to take an active part in the charity committee presided over by the clergyman of the parish, would he not have been inclined, as Romanes was later, to recognize that there is no absolute incompatibility between science and faith?

Thinking that our science does not know, and only derives from a higher source the mystery of life, a secret tear provoked by the contemplation of the sky studded with stars, the evocation of a memory of his youth, would they not have reconciled him perchance with the thought of God? Did not Romanes reconcile himself, although his refutation of theism seemed overweening to Darwin himself, so extreme was it?

But even if he had persisted in denying a divine design in nature, could he not have reached God in another manner? The roads that lead to Him are so multiple and varied!

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[12] See the *Principi di Filosofia,* by Professor Giovanni Rossignoli (*San Benigno Canavese, Scuola tipografica libraria Salesiana,* 1899). This is a learned work and a notable one in some of its aspects, although I dissent from it on several points. Professor Rossignoli resolutely takes the field against Darwinism and evolution, opposing the tendency shown by some Catholic writers to place evolution in accord not only with the theistic principle but also with revealed religion. I am alluding to Mivart, Fogazzaro, Father Zahm, Father Roes, etc. Besides Rossignoli some other rigidly orthodox writers like Tuccimei and Calderoni protest against this tendency. I shall take good care now not to penetrate deeply into this thorny question, although I feel capable of doing it, judging with great impartiality. Von Baer, the great embryologist, denies that vertebrates may issue from arthropoda, which have the nervous centers in the ventral face, while the vertebrates have them in the dorsal face. He opposes thus the idea of the transformation of the mollusca type and in general the development of a superior animal from the series of forms of an inferior species.

At the time of his most bitter doubts Romanes wrote this imperishable page taken from his great work, *Darwin and after Darwin:* [13]

> Upon the whole it seems to me that such evidence as we have is against, rather than in favor of, the inference that if design be operative in animate nature it has reference to animal enjoyment or well being, as distinguished from animal improvement or evolution. And if this result should be found distasteful to the religious mind—if it be felt that there is no desire to save the evidences of design unless they serve at the same time to testify to the nature of that design as beneficent—I must once more observe that the difficulty thus presented to theism is not a difficulty of modern creation. On the contrary, it has always constituted the fundamental difficulty with which natural theologians have had to contend. The external world appears, in this respect, to be at variance with our moral sense; and when the antagonism is brought home to the religious mind it must ever be with a shock of terrified surprise. It has been newly brought home to us by the generalizations of Darwin; and therefore, as I said at the beginning, the religious thought of our generation has been more than ever staggered by the question—*Where is now thy God?* But I have endeavored to show that the logical standing of the case has not been materially changed; and when this cry of Reason pierces the heart of Faith, it remains for Faith to answer now, as she has always answered before—and answered with that trust which is at once her beauty and her life—*Verily thou art a God that hidest thyself.*

Thus, whichever way we turn, we find metaphysics emerging from physics, and the physical side of life from reality. The human mind cannot free itself from the anxious research into the origin and the end of life, nor can it take refuge in an agnostic quiet that is contrasted by heaven and earth, by nature and history.

Let us therefore study and search, trusting in the mutual charity of science and love, and follow the example of these great minds that gave so many truths to the world. If science leads to the dominion of man over nature, if religion leads to the dominance of man over himself to curb his own passions and to do good to others, both science and religion were and shall remain forever the inextinguishable beacons of civilization and the safe guides of mankind.

The day will come when science with its discoveries and faith with its love will find the peaceful bond that will unite and strengthen them, with infinite evolution toward truth and goodness.[14]

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[13] This is Romanes' principal work. It is published in three volumes, Longmans, Vol. I, *The Darwinian Theory* (second edition, 1897); Vol. II, *Post-Darwinian Questions, Heredity and Utility;* Vol. III, *Post Darwinian Questions, Isolation, and Physiological Selection.*

[14] Meanwhile, it is far better to develop the controversy about Darwin's theory of evolution in scientific academies with scientific freedom, as we were doing, than in courts

Meanwhile, if science is purifying religion, religion is purifying science in a continuous alternation of actions and reactions, which has hardly been noticed so far. Who would to-day dare to connect the strangest phenomena of nature with miracles, or exclude a scientific truth because it is in contrast to a religious text? But who is there who fails to notice the emptiness of knowledge in the face of the inextinguishable anguish of moral and religious doubts? And do not these doubts integrate in many ways the knowledge of men?

Nasce per quello, a guisa di rampollo
A piè del vero il dubbio.[15]

Nature and history, matter and spirit, do not stay isolated, but penetrate into and seek each other, prodding human curiosity with new sorrows. But these sorrows mature into the blessings of progress and the most undisputed glories of our civilization.

Kant said: "To what avail do we extol the magnificence and wisdom of creation in the kingdom of physical nature if the history of mankind were to remain an eternal objection against providence?

"If God is not in history then He is not in nature." [16]

And I say in my turn: what wonder that if God is driven out of nature, as a superfluous and parasitical factor, He must also be eliminated from history?

Were He excluded from the physical world He should be excluded also from the moral world, and there would remain only, according to the opinion of Frederick the Great (surely not great only because of the coarseness of such an expression) "the sacred majesty of chance to supply three quarters of the task of this miserable universe!"

On that dreary day science and faith would be corrupted together, and our cold and misty world would resemble an extinct planet.

Modern Importance of Historical-Religious Studies [1]

You have kindly asked me to open the new University Association of Historical-Religious Studies, and I have accepted, because your work is undertaken with a pure spiritual ardor, which expresses the longing of

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of justice, if we want to reach the truth. The recent trial of Mr. Scopes in Dayton, Tennessee, where this teacher was accused of teaching the theory of evolution to his class in a secondary school, thus disobeying a law of the state, was far from being a wise way of approaching the truth. Just now the anti-evolutionists seem to triumph because a Tennessee jury condemned Scopes to a fine of a hundred dollars. This can, however, only strengthen a theory which, in our opinion, seems to be on the decline.

[15] Therefore springs up, in fashion of a shoot,
Doubt at the foot of truth.
(Dante, *The Divine Comedy*, Longfellow's translation.)

[16] The whole conflict between science and religion, as presented to the minds of the Victorian era, is synthesized in the exclamation of Kingsley the pastor: "O scientists, O scientists, leave us our ancestors in heaven, and keep yours in the zoölogical gardens!" (Comparison between John Stuart Mill's *Autobiography* and Sir Edmund Gosse's *Father and Son.*)

[1] Address delivered at the opening of the University Association of Historical Religious Studies in Rome on January 3, 1921.

your conscience, moved and perturbed by the terrible war. The young men who have founded the new association are not of the kind that are disappointed and weary, nor are they seeking quiet in mystic dreams. Emerging from the conflict which was to decide the destinies of civilization, insidiously attacked by a new learned barbarity, they wish to entrust themselves to the vigorous discipline of scientific research and they recognize in the evolution of the religious phenomenon through history a live, inexhaustible source of study by which truth is taught in order to do good, and which is a shining beacon as guide in the dangerous voyage of weary and saddened men, not yet out of the tempestuous seas, still far from the shore of tranquil heaven.

During five long, tragic years we were compelled to destroy, ruthlessly destroy, in the name of the land of our fathers.

The founders of this association feel the necessity of reconstruction to prevent the triumph of the most brutal egotism among different peoples and among the various classes of the same nation, after the incredible sacrifice of the past years.

To reconstruct? To do good? In the name of what? It is not enough, indeed, to entrust ourselves only to material prosperity, to thriving commerce and industry correlated with the discoveries of science and the joyfulness of art. The infernal storm of hatred and destruction, did it not issue from all blessings, plentifully scattered over all continents? To reconstruct, ill-concealed greed and covetousness must be extinguished, and it is indispensable that the eternal law of love should regain its empire over men, that the eager impulse of sorrowful hearts should cause faith to revive in the mystical intercourse between heaven and earth, and should take the place of that sordid materialism, the latest terrible effects of which accumulated so much misfortune and ruin for the world.

Humanity hears the distant voice of the founders of great religions, of apostles, missionaries and martyrs; and that voice repeats to man that he is not only an inhabitant of this earth but that his true country is in a better world. It repeats the law of laws, that of love for your neighbor, of sway over one's passions, of purification of one's soul with sacrifice and self-denial. Thanks to these high messages, you young men who are eager to interpret them have called your teachers to speak to you of religion. The comparison of creeds and of the external rites by which they are represented ensues from a deep examination of their specific conditions, and the various gods travel safely through history. . . .

The result of this thorough and perfect research in the ramification of creeds was given at the Oxford Congress on the History of Religions, where the principal creeds professed by men were enumerated as follows: "The religions of inferior culture, including those of Peru and Mexico; the religions of China and Japan; the religion of the Egyptians, the religions of the Semites, the religions of India and Iran, the religions of the Greeks and the Romans, the religions of the Germans, the Celts and the Slavs; and the Christian religion."

Some of these creeds have disappeared from the face of the earth;

but the greatest and sublimest seem immortal. Why do some disappear and others survive? And all that history does not tell about both the dead and living creeds, is it not more important than what we know? And Asia, from the mysterious bosom of which emerged the principal religions, how many secrets does she still hide from us, in spite of the great scientific works, the forty volumes published at Oxford containing the translation of the Sacred Books of the East, which, together with the admirable works of the last hundred years, are as important as the studies of natural science on the origin of species?

A purer and more attractive association than yours cannot be imagined, my dear young men, in which teachers who wear the halo of thoughtful research will bring to you light from the most recondite celestial spirits, and will fathom for you those religious facts that form so important a part in the history of nations.

Let us say it aloud, so that everybody may hear us. Above the current of material interests, which seem to drag with them every mortal and immortal thing, there is a treasure of ideal forces, invisible and inextinguishable, which exercise their saving influence, curb and control greed and covetousness, and compose, in different proportion according to the character of the times, the essential elements of civilization. Humanity has never lived on bread alone, but always fed itself with spiritual aspirations as well. It has perpetually felt the sweet influence of an imperative morality, coloring the sad realities of life with the supreme joy of the ideal.

The more we delve into these divine and pious annals, the more we perceive them as emerging from the sincerest and purest part of our conscience, in contrast to the superficial doctrines which prevailed at the end of the eighteenth century, which correlated the origin of religions with ignorance, fear and superstition, representing the people as perpetual victims of the lies, the greed and the tyranny of the priestly caste.

Surely men have derived from heaven the loftiest inspirations, and also the cruelest impulses. They have found in religion both martyrdom and persecution, all that is tragically great, and all that is vilely low. The historical studies of the nineteenth century, continued in the twentieth century, have given back to religion its natural and essential task, destroying the supine superstitions and the sterile negations of a suspicious rationalism which seeks everywhere and finds everywhere blind souls deceived by intolerant and avaricious ecclesiastics.

The new search into religious lore teaches us to pray to our own God, in celestial humility, and to consider the other creeds as different notes of pure souls tuned to sublime harmony, and which, to use Leonardo's definition of music, "represent the figuration of the invisible." You are disposing yourselves to listen to this high harmony, not alone with the desire to increase your knowledge of history, but through the intimate persuasion that religious culture arouses both individual and collective elevation of mind. In fact, hearing the Lao-tze passage (*Tao-te-king*, Chap. 63), "Give back good for evil"; and Confucius' precept (*Lun-yu*, XV, 23), "Love others as thou lovest thyself; do not to others what thou wouldst not have done to thee"—you will notice in both precepts a sense not merely Chinese but human, a result of experience that transcends the boundaries of the Celestial Empire and appears valid in every epoch and under every sky.

And you will be told that Buddha preached, independently of Lao-tze and Confucius,

> Malignity is not to be conquered with malignity, but with benignity (*Dhammapada*, I, 3-5) . . . all tremble before the cudgel and all love life; place thyself in their place and kill not, nor let thyself be killed (*Dhammapada*, 129-130). [And there is added:] When the wicked abuse thee thou shalt say: These are good, they are very good, because they do not strike me. . . . If they strike thee thou shalt say: They are good because they do not stone me to death. . . . And if they kill you with steel thou shalt say: There are on the earth God's disciples for whom life is full of anguish, sorrow and disgust, and who seek a violent death. Such a death have I found without looking for it (*Samyutta Nikaya*).[2] And these precepts culminate in the words of the Gospel:
>
> Ye have heard that it hath been said, Thou shalt love thy neighbor and hate thine enemy.
>
> But I say unto you, Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you.
>
> That ye may be the children of your Father which is in heaven, for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust.
>
> For if ye love them which love you, what rewards have ye, do not even the publicans the same?
>
> And if ye salute your brethren only, what do ye more than others? do not even the publicans so?
>
> Be ye therefore perfect, even as your Father which is in heaven is perfect (Matt. 5:43-48).

The Chinese and Indian precepts acquire even more sublimity, in the doctrines of Christ, the supreme poet and artificer of morals, who continuously converts the erring soul and gives a divine flame to the light of the Asiatic apostles. And you, dear youths, by giving a categoric and imperative value to these same precepts, will feel yourselves more serene and more disposed to lift up your hearts and your minds.

The creeds of the various peoples of the civilized world will thus become for you as many flowers, the fragrance of which will aid you in composing that poem of ethics which must guide your conscience, and the conscience of all true and good men.

You came to me, dear young men, just because I have studied all my life the manifestations of the religious spirit, wherever it has appeared.

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[2] Quoted by Oldenberg, *Buddha*, 5th edition, Berlin, 1906, p. 344.

I have studied it, keeping myself outside all particular creeds, which I profoundly respect, jealous defender as I am of unlimited freedom. You asked me to help inaugurate your association, and I could not be deaf to your appeals, old bee that I am, who heard the buzzing of the young hives. I found in these studies on religions consolation and relief for my mind, occupied for so many years by researches in finance and economics, both of which suffer, passing from theory to practice, from the pressure of interests that are surely far from being holy.

However, no suspicion could exist in your minds, certainly, on account of my political and financial activities. You know that your faith in the good that can be done by the fostering of religious study is also mine. I am profoundly convinced that the formidable problems which in our day render all nations perplexed and unhappy, the victors as well as the vanquished, the rich communities as well as the poorer nations, will never find their solution without a beneficial crisis in the conscience of men. It is vain to seek peace between states and within the states, with all its precious consequences of a political, economic, cultural and moral character, if first the sum of kindness and good will does not increase in the hearts of men; if first, really and sincerely, the "point of honor" does not come to be placed more in the noble emulation of modest actions, of disinterested sacrifice, of charitable works than in the contest for riches and display.

Coming down from heaven to earth, even the thorny question of the rate of exchange which summarizes all economic mistakes and all political errors, and which seems so distant from religious and ethical problems, has been discussed by me in connection with them, in my answer to my distinguished friend Eugene Baie, secretary of the International Parliamentary Conference of Commerce, when he recently asked for an expression of my opinion. This was my answer:

> A few words taken from the Sermon on the Mount, were they applied rigorously, have in themselves enough economic wisdom to solve the problem of exchange. All the solutions proposed, no matter how strictly technical, must presuppose the economic and moral elevation of the nations that came out of the war.
>
> They must devote themselves to work, economy and sacrifice; they must have a greater inclination toward the joys of the soul than toward worldly pleasures; and the feeling for the welfare and integrity of the state must impose itself upon individual egotism. Every citizen must confess to the representative of the public treasury as he would to a priest of his creed, for he must consider the necessity, as a taxpayer, of supporting and saving the public finances which are the indispensable guarantee of his private fortune. As a consumer this same citizen ought to form for himself a conscience of rigid

> soberness, without which the prayer raised to God for our daily bread would find heaven deaf and mute. . . . Every financial reform, including those affecting exchange, would be ineffective without the inspiration of those eternal truths which, changed into actions, will lift up the souls of men and improve the physical virility of the younger generation, threatened by growing incontinence, which is also a result of the war. . . . Briefly, the situation is such that a St. Francis of Assisi would be more useful to us, even from an economic point of view, than a professor of economics or a delegate of the League of Nations. Unfortunately a saint is created with much greater difficulty than those we have just mentioned.

I am sure, with ardent faith, of the intrinsic value of your noble initiative, and I encourage and exhort you to persevere. Trusting in the purity of your intentions, which will take form in the words of the sacred books and their interpretations, especially of the Gospels, cultivating those great thoughts that issue from the heart—the only ones which cause immediate acts of kindness—you will modestly proceed through the redeeming road. Give no heed to the mockery of malicious and ill-disposed men, to those who may accuse you of political partisanship, if you feel yourselves emboldened by the knowledge that you are outside every sect, improving yourselves by lending an ear to the voice of good from whatever direction it may come. Bring to your minds the words of St. Paul, who acknowledged his weakness and was glad of it because it permitted him to derive his strength from heaven alone.

If you meet on your way skeptics who may doubt the practical effect of your noble undertaking, answer them in the words of the Buddhist poet:

> Although it is uncertain whether good or evil triumph we believe in good, because the vain labors of men who aspire to goodness, and therefore ennoble themselves, ought to be set before the gratification of those who—even when they abide by the truth—cover themselves with infamy (Açvaghosa, *Buddhacarita,* IX, 65).

Let us then repeat with the Divine Master: "Take my yoke upon you, and learn of me; for I am meek and lowly in heart; and ye shall find rest unto your souls" (Matt. 11:29).

Blessed are the poor in spirit; not only because theirs is the kingdom of heaven, as the Gospel says, but also because they shall inherit the earth. We have seen the end of the proud, who believed themselves all-powerful and omniscient, who had even dared to monopolize God.

What matters it to us, what matters it to humanity, immortal because it is of divine creation, that these ineffable discourses, brought back from oblivion, are taken back after thousands of years?

History is as patient as nature is!

Liberty and serenity in the search for truth, liberty and sincerity in the practice of faith. In these affirmations the eternal youth of human kindness shines with the glory of eternal rays.

PART II

VOICES FAR AND NEAR FROM INDIA IN REGARD TO SACRED WRITINGS

THE DISCOURSES OF GOTAMA BUDDHA [1]

K. E. NEUMANN, who is still young but already great because of his studies of the Pâli texts and especially that of Buddha, has crowned his researches in that field with the three volumes (the first published in 1896, the second in 1900 and the third in 1902), in which he gives a German translation of Gotama Buddha's discourses. Professor De Lorenzo, Neumann's disciple and collaborator, has recently published a part of the same work translated into Italian. Thus we have before us, thanks to these two distinguished scholars, the opinions that the purest spirits of India were wont to exchange between the sixth and fifth centuries B.C. with a greatness surpassed only by their simplicity. Buddhism is a religion grafted upon philosophy.

All things are rooted by Gotama in the will. If the will is directed toward absolute goodness, which consists in ridding one's self of every desire, source of evil, then it lifts man to redemption.

Buddha teaches us to recognize four holy truths: the truth of pain, the truth of the origin of pain, the truth of the destruction of pain, the truth of the holy way that leads to the quieting of pain. When these four formulas are fully understood the desire for happiness in the present or the future life ceases. There are two false paths which must not be taken by those who aspire to redemption: the first is the mundane way which leads to the satisfaction of passions and senses; the second [2] to mortification of the flesh and asceticism, a disconsolate, sorrowful, useless path. Buddha's doctrine leads to liberation, to perfection, to Nirvana, which is a condition of the soul where every aspiration to existence and to enjoyment is extinct: it is absolute inner peace, accompanied by the certainty of redemption achieved. The majority of men are so imperfectly constituted by the effect of their actions in previous existences—in the eternal vicissitudes of life, death and rebirth—that they have need of several generations before they can be purified and achieve redemption.

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[1] *I discorsi di Gotamo Buddha del Majjkimanikâyo*, translated from the Pâli into Italian by K. E. Neumann and G. De Lorenzo (Laterza, Bari, 1907). While I was correcting the proofs of this article Herr Neumann sent me the first copy of Volume I of the new discourses translated by him. These are the first thirteen discourses of a series which reveals new aspects of the saint of Buddhism and on which I intend to write in the near future. The title of this work is *Die Reden Gotamo Buddhas aus der längeren Sammlung Dighanikây des Pali-Kanons, übersetzt* von Karl Eugen Neumann (München, R. Piper und C., Verlag, 1907).

[2] Besides the well-known great books expounding Buddhism see also Paul Carus' volumes, which are published in Chicago and are little known in Europe. See also the excellent and original publications of the *Musée des Religions* of Paris and the *Buddhistic Catechism* of Subhadra Bhikshu, which have been of great service to me in my writings, together with Paul Carus' *Gospel of Buddhism*, a French translation of which appeared in the *Annales du Musée Guimet* (Museum of Religions, 1902). This *Gospel of Buddhism* by Carus is at present used in several Buddhist schools in Asia.

But it is certain that our regeneration depends entirely on our will, our Karma. Karma[8] is the manner of performing the actions of our life, which measures the merit of every one of us. The more the moral sense is refined the more we are sure of rebirth in a superior class of beings, while our faults and crimes reincarnate us in a life of inferior order replete with sorrow. A rigid and immutable justice dominates the entire world of animate and inanimate nature. Every bad or good deed necessarily matures its fruits: no grace of a personal God may free the guilty one from the torment of his conscience, and no one can diminish and take away from the just one the reward due to his virtue. The Karma is the kernel of the inner force of every individual, correlated with the moral order of the universe, which is composed of our world and all other worlds. There is no creating God, on whose grace existence may depend; everything arises and develops by itself through the force of its own will and according to its inner nature and condition—its Karma. Ignorance has discovered a God creator, personal and all-powerful. And this God—in whom the author of these notes firmly believes—seems a heresy to Buddhism, like the doctrine that the world takes its origin from nothingness.

This seems to read like Schopenhauer's doctrine, which concentrates everything in will, considered as a power both creative and destructive of nature, first unconsciously and then consciously, and which ends by denying itself; a colossal vision is this and a high dream of thought!

For the Buddhist an explanation of the ultimate mystery of being is impossible: not one of the finite forms, to which also belong words and thoughts, can express the infinite; no determination of time can signify what has no time (eternity); no thought which succeeds and develops in the chain of chance can understand what has no cause, entity in itself. Therefore Buddha excludes all classic or religious metaphysics, and gives his advice in the following lofty words:

> O youths, think not thoughts as the worldly imagine them; the world is eternal or the world is not eternal, the world is finite or the world is infinite: direct your meditation toward pain, the origin of pain, the destruction of pain and the holy way that leads to the quieting of pain.
>
> Without beginning and without end, O youths, is this Samsàra. The beginning of the beings who, imprisoned in ignorance and pushed by the realities of life, wander on from generation to generation, is unknowable.

The essential thing, says Buddha, is to free one's self from sorrow, and he adds:

> What think ye there is more of: the water of the four great seas or the tears shed by you, who err and moan on this wide road? . . .

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[8] Paul Carus, *Karma, A Story of Buddhist Ethics*, Chicago, 1903, translated into various tongues (German, French, Hungarian, Russian, Japanese, Siamese, etc.). The Russian translation is by Tolstoi.

> Death of the father, of the mother, of the brother, of the sister, of the children, loss of relatives or of treasure, the sufferings of illness, all that you have suffered since unthought of times, and ye have shed more tears than the water gathered in the four seas. . . .

Therefore we must courageously break the current of desires; "when thou hast recognized the nullity of being, then thou knowest what is non-being."

In a worldly life the total annihilation of desire is not possible; only the elect, the monks who consume themselves in meditation, and follow the Master, are permitted to draw near to Nirvana. Those who remain attached to the world, living according to precepts of righteousness and benevolence, loving all men and all other living creatures, may obtain a favorable regeneration. But it must be noticed that Buddha himself, the Sublime, the Perfect, cannot redeem us from the consequence of our faults; *each one must be redeemed by himself*; each one, provided he wills it, may awaken the messiah that he holds latent in his heart. The Buddha has taught the manner by which every man can redeem himself. This we read in the Dhammapada:

> Thou knowest that thou art doing well, therefore thou thyself sufferest; thou acquirest merit through thine own effort, through thine own effort thou unloadest thy faults; both guilt and saintliness depend on thine own actions, no man can ever redeem another.

It would take too long, although it would be highly interesting, to expound the moral doctrines of Buddha, founded upon the inexorable law of responsibility:

> To avoid evil, to do good, to purify one's heart from passions, not to censure anybody, to practice abstinence faithfully, to be sober in eating and drinking, to sleep and dwell alone, and to direct one's thought only toward sublimity, this is the Buddha's doctrine. . . . "He abused me, he beat me, he robbed me"—hatred in those who harbor such thoughts will never cease. For hatred does not cease by hatred at any time: hatred ceases by love. . . . Conquer the angry man with mildness, the wicked with good, the miser with liberality, the liar with truthfulness.

Whoever aspires to Nirvana, viz. to perfection, is not permitted to defend himself from the wicked; he abandons the offender, forgives and pities him because he will have to atone for his faults in the next reincarnation all the more harshly because he exults now, and therefore shuts away his life from better knowledge.

But even the layman, who cannot achieve perfection while still defending his rights, must feel benevolence for his adversary.

Kindliness, meekness, liberation from all human cupidity, continuous aspiration upward, humility, modesty, resignation—thus must one serve in the world. St. Paul says later: "My strength is made perfect in weakness." [4]

"Better than ruling over all the kingdoms of the earth," observes Buddha, "better than dwelling in the celestial worlds, even better than becoming the master of all this universe, is it to take the first step on the path that leads to liberation."

This is not the place to discuss this great doctrine, to examine how Nirvana—which removes the purest and strongest minds from the care of science and fecund labor—can be made to agree with the laws of progress, or how the individual responsibility so implacable in Buddhism can exist with the unconsciousness of our preceding lives, the memory of which alone can create punishment and remorse through a comparison of sorrows. But this is the mystery of Buddhism (every religion has dogmas that cannot be explained), just as Nirvana is a terribly sublime mystery, thus described by Buddha:

> There is, O monks, a place where there is neither land, nor water, nor air, nor light, nor space, nor time, nor any existence whatsoever, nor representation nor non-representation, nor this, nor that. In that place there is no future, no birth, no death, no cause, no effect. There is, O monks, something unborn, unoriginated, unformed. If this were not so there would be no way of exit from this world of things, become unoriginated, formed. . . .

Gotama teaches the way to the road which leads to the absolute and dissolves our ego in the inexplicable Nirvana; but whoever chooses another road is not lost. Buddha is neither God nor son of God, he is only a herald of the moral order of the world; whoever offends him does not offend our Father who is in heaven. Therefore wherever Buddhism penetrates, freedom of conscience and religion flourishes, as I trust I have demonstrated elsewhere.[5]

Wherever Buddhism has taken root, in ancient India, in China, in Siam, in Japan, among nations of diverse race and civilization, religious freedom has always reigned until the occidental element came to disturb it.

What is the fundamental cause? Surely not the difference in race, as was suggested to me, because the Japanese are as tolerant as the Hindus who are so distant from them, while we Europeans, who are akin to the Hindus, have given proof of intolerance. Who can ever deny the profound influence of religious doctrine in molding the soul of the people?

The Japanese are brave to the point of heroism, but very tolerant withal, as behooves the followers of a doctrine which teaches the vanity of life, pity for all living beings, the absence of a personal and avenging God.

Somebody bade me notice that the Japanese welcomed among them in the beginning of the seventeenth century the Portuguese, the Spanish, the English and the Dutch, and then drove them away in 1638. But it would be easy to prove that the Emperor Jyeyasu did not rise against their beliefs, to which he granted the fullest hospitality, but against the intrigues of the Jesuits, who he feared were endeavoring to overthrow the foundations of the state.

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[4] (II Cor. 12:9). We have purposely quoted St. Paul's admirable words more than once in this volume.

[5] See the chapter in this volume entitled "The Superiority of Ancient and Modern Asia in the Exposition and Application of Freedom of Conscience."

This thesis is splendidly demonstrated in a book by Hischida entitled *The International Position of Japan as a Great Power*, which was recently published by the Faculty of Political Science of Columbia University.

Let us now go back to Buddha's discourses, all of which ought to be quoted to show their moral beauty.

One of the main characteristics in Gotama's discourses is, as in those of Christ, the use of parables and comparisons, as for example the parable of the ant hill in the twenty-third discourse. This parable can well be placed next to those known to us in the Gospels. Even the contents of other comparisons do not essentially differ from those to which we are accustomed in Christian idealism, although the form is more dry and monotonous, as can be seen from the following extract from the tenth discourse:

> And, furthermore, O monks: the monk considers this body as a specification, whether it be in motion or stable; this body has the species of earth, the species of water, the species of fire, the species of air.
>
> Just as, O monks, a skillful butcher or a butcher's boy slaughters a cow, takes it to the market, dries it piece by piece, exposes the various parts to view, knows them, looks at them and examines them well, and afterwards sits down: now just in the same manner, O monks, does a monk consider this body, whether it is in motion or stable, as a specification.
>
> Thus he watches near the internal body on the body, within and without he watches near the body on the body. He observes how the body is formed, observes how the body passes over, observes how the body is formed and passes over. This is the body: such knowledge becomes its support, just because it serves to knowledge and reflection; and it lives independently and desires nothing in the world. Thus, O monks, a monk watches near the body on the body.
>
> And furthermore, O monks: as if the monk had seen a body lying in the cemetery, one day after death, swollen, livid, entered into putrefaction, he draws the conclusion thereof: Even my body is so made, it will so become, it cannot escape. And furthermore, O monks: as if the monk had seen a body lying in the cemetery, torn to pieces by crows and vultures, or by dogs and jackals, or eaten up by worms, he draws to himself the conclusion: Even my body is made like that, it will become so, it cannot escape. And further-

> more, O monks, as if the monk had seen a body lying in the cemetery, a skeleton, with fragments of flesh, stained with blood, held together by tendons; a skeleton fleshless, stained with blood, held together by tendons; the bones, without tendons, scattered here and there, here a bone of the hand, there a bone of the foot, here a tibia, there a femur, here the pelvis, there vertebræ, here the skull; as if he had seen that, he draws to himself the conclusion: Even my body is made thus, it will become so, it cannot escape. And furthermore, O monks: as if the monk had seen a body lying in the cemetery, the bones whitened like shells; the bones, softened, heaped up after one year is passed; the bones, rotted, fallen into dust; as if he had seen that, he draws to himself the conclusion: Even my body is made thus, it will become so, it cannot escape.
>
> Thus, he watches near the internal body on the body, thus he watches near the external body on the body, within and without he watches near the body on the body. He observes how the body is formed, he observes how the body passes over. This is the body; such a knowledge becomes his support, and he lives independently and desires nothing in the world. Thus, O monks, a monk watches near the body on the body.

In this comparison, the thought of the vanity and corruptibility of our body, common also in Christian ethics, is expressed in a form so simple, serene, languid, that it has not counterpart in occidental religious literature, in which everything is more passionate, more warm and even more artistic in its plainness. But movement and emotion are not lacking in Gotama's discourses when there is occasion for them. Thus, for instance, in the twenty-second discourse, the Master refutes with vehement expressions the false opinions of a disciple who is too vain, and endeavors to make the doctrine clear for him and for others with a stream of magnificent comparisons:

> It is well, O monks, it is well that you monks understand thus the announced doctrine. Certainly I have explained to you, in various ways, O monks, the harmful actions, and shown how they necessarily hurt whosoever commits them. The desires are unsatisfying, I have said, full of pain, full of spasm: misery predominates. I have compared the desires to fleshless bones; I have compared the desires to burning straw; I have compared the desires to live coals; I have compared the desires to visionary dreams; I have compared the desires to begging; I have compared the desires to the fruits of a tree; I have compared the desires to the edges of swords; I have compared the desires to the point of a lance; like the gullets of snakes, I have said, are the desires; full of pain, full of spasm: misery predominates. But this monk Arittho, the former hunter of vultures, wishes to correct us, and digs a grave for himself, and creates a serious fault for

himself. This will hurt this vain man and bring him sorrow. That he, however, O monks, besides these desires, besides the perceived desires, besides that which is thought of as desires, may find other desires; this cannot be.

There are, O friars, vain men who learn the doctrine. Although they have learned the doctrine they do not wisely seek the sense of the doctrine. As they do not wisely seek the sense the doctrine supplies them with no knowledge. They only learn the doctrine in order to be able to utter discourses and opinions upon it. They do not perceive the purpose for which they learn the doctrine. The badly learned doctrine is for them a cause of harm and sorrow. And why so? Because, O monks, they have badly grasped the doctrine. It is, O monks, as if a man who desires snakes, goes out for snakes, seeks snakes, and would find a powerful snake and would grasp it by the body or by the tail; and the snake would turn upon him and bite his hand, his arm or some other limb; so that he would suffer death or mortal pain. And why so? Because, O monks, he would have badly grasped the snake. And just so, O monks, there are vain men for whom the badly learned doctrine is a cause of harm and sorrow. And why so? Because they, O friars, have badly grasped the doctrine.

There are, however, O monks, noble sons who learn the doctrine. After they have learned the doctrine they seek with wisdom the sense of the doctrine. Because they seek the sense with wisdom, the doctrine furnishes knowledge to them. They certainly do not learn the doctrine only to be able to utter discourses and opinions upon it. They perceive the purpose for which they learn the doctrine. For them the well-learned doctrine is a fount of profit and salvation. And why so? Because, O monks, they have well grasped the doctrine. It is, O monks, as if a man who desires snakes, goes out for snakes, seeks snakes, and would find a powerful snake and would fell it with a well-grasped forked stick, and would take it by the neck. Even if, O monks, the snake would then entwine the hand or arm or another limb of that man, not for this would he have to fear death nor mortal pain. And why not? Because, O monks, he would have grasped the snake well. Now just in this manner, O monks, there are also noble sons for whom the well-learned doctrine is a fount of profit and salvation. And why so? Because they, O monks, have well grasped the doctrine.

Therefore, O monks, what you understand of the sense of my discourse, that keep faithfully; but what you fail to understand of the sense of my discourse, that I must discuss with you, in order that there may be well-instructed monks.

In this discourse, as in many others, the dogmatic tone is never heard, but one listens to a simple, persuasive note, like that of the Socratic dialogues, which are certainly more refined, more elegant, better proportioned and chiseled in the admirable Greek manner.

No other form befits Gotama, who sees in his doctrine not an end, but only the means to achieving a lofty purpose, as he says in the discourse quoted above:

> "Like unto a raft, O monks, I wish to show you the doctrine, meant to save you, not to give you fear."
>
> "Yea, O master!" answered those monks, attentive to the words of the Sublime One. The Sublime One spake thus:
>
> "Just as if, O monks, a wayfarer reached a great expanse of water, the bank this way full of danger and fear, the bank that way safe and without danger, and there should be no boat for the crossing, no bridge for the passage to the other side. Therefore if I gathered reeds and logs, fagots and leaves, and built a raft, and by means of this raft, working with hands and with feet, I should safely pass to the other bank? And the man, O monks, should gather reeds and logs, fagots and leaves and should build a raft, and by means of hands and feet should safely pass to the other bank. And when safely passed, he should think thus: 'Verily, this raft is dear to me, for by means of this raft, working with hands and feet, I passed safely to the other bank. Therefore, if I now should put up on my head or load upon my shoulders this raft, and should go where I will?' What think you, O monks? Would this man treat his raft becomingly in such a way?"
>
> "Certainly not, O master."
>
> "What should that man do, O monks, to treat his raft becomingly? If this man, O monks, saved, passed over, were to reflect thus: 'Verily this raft is dear to me; by means of this raft, working with hands and feet, I passed safely to the other bank. Therefore, if I now should place this raft upon the shore or if I threw it in the water and should go where I will?' Acting thus, O monks, this man should treat his raft becomingly. Now just like that, O monks, I have expounded the doctrine like a raft that is meant to save you, but not to be kept.
>
> "Ye who well understand the simile of the raft must leave the just also, and not alone the unjust."

It is just this doctrine, which goes beyond the just and the unjust, beyond good and beyond evil, that has spontaneously expressed in its vital essence that religious tolerance which has existed in Asia since the most ancient times. In Europe the same tolerance appeared only later, and then it came through the necessity of coexistence and political compromise.

The poetry of these discourses is often melancholy and chaste. The following stanza gives a mystical impression of sylvan music:

"Each one of us, brother Sâriputto, has answered according to his conception. Beautiful, O Sâriputto, is the wood Gosingam, splendid the clear moonlit night. The trees are in full bloom and the air seems to exhale a celestial perfume. What monk, brother Sâriputto, can give splendor to the wood Gosingam?"

Five hundred years later Christ said:

"Consider the lilies of the field, how they grow; they toil not, neither do they spin. And yet I say unto you: that even Solomon in all his glory was not arrayed like one of these."

These divine Masters are also the divine interpreters of nature, and they sing of it with hymns in which the celestial soul of the son of man is fused in admirable harmony with the soul of things!

February 4, 1907.

THE HOMER OF BUDDHISM [1]

IS BUDDHISM SUPERIOR TO CHRISTIANITY?

ONE of those truly eminent professors who enhance the glory of Italian institutions of learning by their research and profound study has translated into Italian from Sanskrit the poem of Buddhism written by Açvaghosha, the Homer of India. While the center of Hellenic poetry revolves about the Trojan War, that of the Indian verses deals with the essence of life and death, the inevitability of sorrow and the sublime search for liberation from sorrow. In spite of its philosophical character, the beauty and variety of the story, woven with artistic mastery, and the power and admirable qualities of the idea and emotions, Açvaghosha's book gives the reader an impression of lively and sincere spiritual joy. After perusing its pages the discourses of the gods of Olympus become almost unbearable, although saved by the immortal grace of the Greek tongue.

It has been objected that light on the origin of Buddhism cannot be obtained from a poem written at least one hundred and twenty-five years after the beginning of the Christian era, that is, more than seven hundred years after Buddha's life. As if St. Ambrose, St. Augustine and St. Francis of Assisi were not high and venerated interpreters of the doctrine, and more than the doctrine, the heart of Jesus, although the time of his preaching was so far from that in which they lived! Well does our Formichi say: "The great understand each other even if separated by centuries." While writing his poem Açvaghosha gathered the documents and the living testimony of the Hindu reformer, much of which material we do not possess.

Besides, these divine men use the future times. Every saint, every lofty thinker, adds to the old epochs—without diminishing or weakening them—the new interpretations of their doctrines and of their acts, and the more the world progresses the more human solidarity becomes refined and the better they are understood. They are and always will be the precursors of the future, and they acquire a new youth with the passing of time. The Sermon on the Mount has never been surpassed and never will be, because it is unsurpassable. The new civilization with its disquieting shadows and its moral and social deficiencies makes us feel, amidst so many proud triumphs of applied science, the irresistible harmony and the urgent necessity of some of those "declarations" which seemed superfluous or which found no counterpart in the sad reality of life. After drinking at the fountains of all the philosophers, enhanced and corrected by milleniums, illumined by the marvelous discoveries concerning the occult forces of nature and of the soul, we of the twentieth century who have inherited and acquired so much knowledge, feel ever more ardently the desire to cry: "Blessed are the poor in spirit; for theirs is the Kingdom of Heaven."

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[1] The Homer of Buddhism is Açvaghosha, whose poem was recently translated into Italian by Professor Formichi, who holds the chair of Sanskrit at the University of Pisa.

It is since the proclamation of all constitutional liberties, of all political and social equalities, of the inviolability of conscience, that we feel even stronger in our day the aspiration to resist the impetuous torrent of certain social falsehoods, made to appear infallible by the number of their adherents; and before this threatening new tyranny we cry again with evangelical firmness: "Blessed are ye, when men shall revile you and persecute you. . . ."

To go back to our Homer of India, we find in his work, narrated with lofty poetical style, the story of the birth, the childhood, the adolescence and the conversion of Buddha, and he leads us through ancient and strange customs which have for us Europeans something perpetually mysterious and fascinating. The redeemer appears in Gotama from his early youth; he resists the attraction of enchanting women, of his father's loving voice, and later, of his wife and child. He departs from his luxurious abode, where he could rule over a chosen people, among the joys of earthly life. He seeks the forest, argues with penitent Brahmins, repudiates their doctrine, which he finds inadequate, and the more he penetrates into the forest, the more temptations he finds around him. He had refused to rule over his country, and refuses to rule over the kingdom of all the worlds, of all the pleasures which the tempter Mâra, the evil genius, offers to him. He resists all terrors, as he had resisted all temptations, and finally he consecrates himself entirely to his own liberation and that of all suffering humanity. He conquers all difficulties as the light conquers the darkness, and announces to his few faithful disciples the great tidings of Nirvana, the deliverance from the woes of life through meditation which annihilates the human individuality. Whoever can gain Nirvana, following the way taught by Buddha, is saved from the anguish of reincarnation through which common mortals must pass. All mortals bear the responsibility of their destiny and vicissitudes of life, and they can be saved only by themselves through their deeds. Buddha is the herald of a doctrine of salvation, not a saving God; whoever refuses to follow him does not offend our Father who is in heaven, but goes on suffering, and finds in the continuation of his pains the sanctions of his disobedience to the voice of the Master. The sinner is condemned to rebirth in a lower mode of existence, until he finds redemption in his own free will. Everything perishes, except free will connected with responsibility. What an abyss there is between the doctrine of the Buddhistic Karma and that of the Christian grace! One's own virtue is not sufficient to save any creature in the Christian doctrine without the continuous intervention of the Creator's mercy; in Buddhism no one can save us except ourselves!

Buddha tells his disciples:

> You are the slaves of a tyrant, which is in yourselves; your own actions and words, your thoughts in your present condition of life belong to the preceding life; you are your own avengers, through an infinite series of lives.
>
> If you are a murderer, a thief, a liar, an impure person, a drunkard, you must pay the penalty of your first rebirth; your destiny is sealed. Not in the heavens, O man, not in the midst of the seas, not if thou hidest thyself in the deep caverns of the mountains, wilt thou find a place where thou mayest draw thyself away from the force of thine own evil deeds.
>
> Thy only hope of salvation is in thyself. Not a god, not a man, can save thee, and I myself am powerless to free thee.
>
> But as the welcome of relatives and friends awaits him who returns safe from afar, thus does the fruit of his good deeds greet the man who has walked in the path of righteousness, when he passes from the present life into another.

Calvin has placed himself on the opposite side, exaggerating a doctrine that the Catholic Church has sought to moderate justly, with grace connected with good deeds. According to Calvin, who misinterpreted St. Paul, God has for all eternity predestined certain men to damnation and other men to salvation.

The last edition of the Edinburgh official catechism contains the following harsh statements, in open contrast to the words of Buddha:

"By a decree of God and as a manifestation of his glory, certain men and angels are predestined to eternal life and others to eternal death."

God chooses them without any inquiry into their faith and their deeds; it is through a "celestial whim" that a soul falls into hell or ascends to the glory of paradise.

But we are straying from our subject—not uselessly perhaps—and we are going back to Açvaghosha's sacred poem.

All the Buddhistic revelations are found there, powerfully developed in powerful expressions and intensely moving in their strong kindliness. Indeed only Dante in the *Divine Comedy* reasons and philosophizes so loftily with his verse on supreme ideas and their transubstantiation.

When the hero of the austere was born, "the land wedged by the

Himalayas trembled as a ship shaken by the wind, and from a cloudless sky a rain of azure and red lotus fell down, perfumed with sandalwood."

A Brahman holy man prophesies that "he will point out the road to salvation to those who are tormented by pain, or led astray by pleasures, erring in the forest of Samsâra (the sensual vicissitudes of human life) as unto a wayfarer who has wandered away from his path."

The amusements and toys of the gyneceum fail to move the child Gotama. "His mother Maya, seeing the immense glory of her son—similar to that of the prophets and the gods—could not resist an outburst of joy, and ascended to heaven to become immortal."

The prince goes out from the palace for the first time, and in his passage through the streets of the city he learns of the existence of pain. All the inhabitants want to see him, and the description of his passage is artistic, varied, fascinating.

"Some praised him for the sweet expression of his face, others commended him for the majesty of his person, others extolled the beauty of his features, and others finally magnified the exuberance of his healthy appearance. . . ."

This young and handsome prince sees for the first time the sufferings, the diseases, the physical and moral defilement personified in human beings whom he meets in the streets, and says:

"Charioteer, drive back the coach, this is neither the time nor the place for enjoyment."

How can it be supposed in fact that a sensible man, after knowing what is death, can amuse himself when it is time to be distressed?

The king has him conducted to a pleasant grove, full of young trees in bloom, of enamored *kokilas* skipping about joyfully, of pools and pretty lakes covered with lotus. And into that grove full of beautiful women the son of the king is dragged by force, an ascetic, already invulnerable and resisting every temptation. "In the delightful grove, at the head of all those beautiful women, he shone like the sun." And there an inciting scene takes place, enhanced by the moral beauty of the young prince "who keeps his senses protected by will power; thinking with horror of the unavoidable necessity of dying—he never had a thrill of joy, never a smile."

Considering that the entire world is, as it were, burned by a conflagration he cannot pluck up courage, and finds no pleasure in the enjoyment of the senses. He evades the vigilance of his father, who suspects him of harboring ideas of flight, and abandons the paternal abode with the assistance of a beautiful steed, to whom he speaks thus: "It is easy to find three companions for war, pleasure of the senses, or acquisition of riches, but for the man fallen into misfortune or disposed to dedicate himself entirely to piety no companion can be found."

The horse participates with his fleeting gait in this departure: "Set about," Buddha tells him, caressing his head, "with thy dash and rush and thy strength to gain merit for thy salvation and the salvation of the world."

The forest is his place of abode, and he resists first the temptation of his pity for his family, then that of the evil genius. "Like the storks that first go together, then part, so I think that the union and parting of mortals can be. And because this world passes, while we deceive one another, it is not permitted to believe that anything belongs to us during a union which has the character of a dream."

The doctrine of elevation of the soul through Nirvana, without celestial rewards, becomes more and more vivid in him, and he says:

> Those who abandon riches, relatives and the pleasures of the world, and submit themselves to harsh discipline in order to gain for themselves the joys of heaven, become in reality riveted to a stronger chain. Some strive for this world, others for the world beyond. Meanwhile all men, disappointed in their hopes, their designs ending in failure, fall into evil because they seek the good.

Here the poet interrupts his story to narrate the grief of the people when they lost their prince. "This city without him becomes a forest, and the forest with him becomes a city." All wept, "Like unto the bindweeds which strike themselves with their buds when agitated by the wind, thus did those fair women strike their breasts with their beautiful hands."

The dialogues of the Master with the ascetics and with his father's messengers are treasures of beauty that ought to be read with diligent attention. He scorns the Brahman doctrine of maceration of the flesh; we must have a sound body in order that the ever deeper meditation may not find an impediment in physical ills.

Buddha teaches in the wilderness how thought ought to ascend higher and higher; his is the school of meditation and philosophical renunciation. "With the progress of contemplation we acquire that merit which conducts us to the lofty serene state difficult to reach, which is free from the evils of old age and death."

The poem ends with the victory gained in the struggle against Mâra, the tempter and the spirit of evil. "As soon as the sorry spirit departed after his defeat, the sky became clear, the moon shone, a shower of flowers fell from heaven on to the earth, and the night gleamed with the beauty of an immaculate woman."

Professor Formichi opens his translation of the poem with a learned philosophical comment, and closes the book with technical and philological notes. In the introduction he expresses his views on the superiority of Buddhism; he, together with other strong thinkers of Italy—Professor De Lorenzo among others—has yielded to the fascination of such a sublime austerity. I admire them, while dissenting from them, and I desire here to summarize my controversies upon this profound theme with De Lorenzo and Formichi, men of great and powerful mind, whose friendship I am happy to possess.

Professor Formichi, at the end of his introduction, while he denies the hypothesis that Christianity is a plagiarism of Buddhism, and recognizes that humanity educates or receives divine and moral seeds which attest to brotherhood of origin, and perhaps final agreement, thus concludes:

> How many of us recognize themselves in Gotama Buddha? . . . No mortal can exist in the world who has not said in a moment of his life: I am a Buddhist.
>
> However noble and poetic the active virtue of love may appear, it is a fact that it fails in great part in its attempt. Surround with loving care, assistance and remedies the bed of an intolerant, crabbed patient, impatient to go back to the enjoyment of life; and all that care, all the assistance, all the remedies, will be of no avail to free him from the incubus of his fear of death, from his rage for the loss of the pleasures of life, from the most horrible despair. But place on a bed of pain a true Buddhist; his face may be contracted by pain, but the resignation and peace which reign in his soul will be of more avail than any drug and any physician, to relieve him from the suffering of his physical pains.

It may be, friend Formichi, that even to-day some Buddhist, like any Stoic of antiquity, may be able to approach death with a serene spirit and without fear; it may be that we can only supply for the relief of the immense mortal pain and sorrow "this eternal medicine of the infinite force of individual conscience alone, without the need of a priest or a theologian, may find peace and comfort and may transform a man into a god." And I acknowledge that the mind trembles and hesitates when confronted by the two greatest religions of mankind, Christianity and Buddhism, by the immeasurable greatness of their doctrine and of the ethics that illuminate them. But I have before me an able book by Albert J. Edmunds, *Buddhist and Christian Gospels*, and I make mine its conclusion in which, after proving with documents that the legends of the childhood of the two redeemers, of their initiative and declarations of morals resemble each other, the author exclaims: "The Buddhist Nirvana is one of reason; it is the individual who loses himself and dissolves into the universe; the Christian Nirvana is that of the heart; the individuals penetrate into each other."

To go back to the example of the impatient and crabbed patient, how many times does a sweet word uttered at his sickbed with evangelical simplicity succeed in transforming an egoist into a martyr, and, if he happens to be cured, sends him back to society improved and grateful? This intimate and simultaneous care of the soul and of the body contributes to their salvation and health. The saint of Assisi was right when he took away the blasphemer from the hands of the horrified friars who were reproaching him, for he understood with one of those great thoughts which can come only from the heart that in order to change the blasphemy into a hymn to the Creator it was first necessary to wash the hideous sores of the leprosy which affected the unhappy man. It is often vain to speak of all the virtues to men subject to all material needs, but whenever we try to satisfy them in order to avoid their ultimate degeneration in the slime of material things we must endeavor to elevate them and ennoble them with celestial care, in order to lift up their souls. In my controversy with Professor Formichi the latter acknowledged that humanity needed both Buddha and Christ. "Christ," he says, "is more attractive, if I may say so, but Buddha is deeper, and he is more correct. But I agree with you in considering Buddhism as the religion of intellectual aristocracies."

For my part, I should rather say that primitive Buddhism, as its founder taught it, which degenerated afterwards with vulgar practices among so many of his four hundred and fifty millions of followers, may be a philosophy of some intellectual aristocracies, but it is not a religion; it may represent even in our modern society the state of mind of some stoics resembling, with different virtues and different needs, those of ancient Rome. My eminent opponents object to the statement that only the peoples educated in the Old and New Testament were open to civilization and that we owe to them the progress of science and morals, not through the ideas of the Bible, which are old, but through the new applications of these ideas which appear to be infinite.

"Can it be truly said," they observe, "that Europe and the continents inhabited by Europeans were redeemed through Christianity? Doesn't our redemption date from the day when we went back to the Roman and Greek wisdom and culture, transforming primitive Christianity into a religion that could be reconciled with the exigencies of social life and progress?"

Certainly, as I hope I have demonstrated in my chapters on freedom of conscience and of science, Hellenism and Christianity are still the two inherent forces in human society; our civilization is the dialectic process of Hellenism and Christianity, fused by the labor of centuries in a single model. But is not the conjunction of Hellenism and Christianity an intrinsic virtue of the latter? And if, as some claim, it is not the quality of the religion which sows the seed of civilization, but that of the race, then did not Christianity, eternally renewed in blossoming trees, adapt itself to the progressive character of the nations of Europe? Who could deny the influence of Christianity in the admirable flourishing of art, and concede only that of Hellenism?

The hero of the Buddhistic Homer delves into the sublime vanity of nothingness, abandoning without remorse the corrupt maidens of the city of sin. Christianity, starting with Jesus, endeavors to work their salvation, with a perpetual anxiety for the sanctity and ineffable purity of woman.

Why free ourselves from pain? Why long for this sublime cowardice of annihilation, and consider it as the supreme goal of life? In pain and sorrow we find redemption and the reason and incentive for progress.

Humanity is nothing but a continuous redemption from the necessities and the sorrows of life, and this redemption comes as a result of goodness and of knowledge.

If the necessities and the sorrows of life were destroyed the torch of civilization would be extinguished. The function of humanity is not to take refuge in a forest, consuming itself in meditation, and being extinguished in the illusion of a Nirvana which, if it is not nothingness, represents the joy of an infinite individual wisdom which must appear selfish and egoistical. This function is to struggle in the world of virtues and sins, of light and darkness, to cause the law of solidarity to triumph, a law which connects culture with ignorance, wealth with poverty, the spirit of good with that of evil. This, and no other, is in our opinion the sound interpretation of the doctrines of the redeemers. And if the evolution of Christianity prepares and permits such greatness it seems to me that Buddhism excludes it. Nor can it be of avail to say that Buddha's ideas of morals forestalled those of Christ: even the principal one, to love those who hate us. It is true, the similarity of the two gospels is astonishing: the faith that moves mountains was spoken of by Buddha before Matthew. And in the forests of the Ganges region the great tiding was heard, long before it was announced in the Gospels, that the enemy was not to be hated, but loved, blessed and helped.

But Christ alone knew how to use methods of reasoning that are different from those of scientific logic but which exercise an eternal fascination over human hearts. The evolution of morals does not consist in the novelty of the idea, which perhaps every righteous man finds in his own heart, but in the way in which it is announced and in the effect which it obtains. The problem was to give it a prominence, a clearness, a seductiveness, that might illumine and fill with admirable ardor even the hardest conscience.

Now in the Gospels virtue is depicted and etched with the admirable art of simplicity, and after the Gospels the ancient Bible has this admirable characteristic. In those two books of the Old and the New Testament the holy and kindly words are changed into eternal formulas, renewing with the future generations the effect experienced by those who had the incomparable joy of hearing them. Of this we shall give a proof, with which we conclude our discourse.

> Let every one dominate the anger of others by the absence of anger, evil by good, a liar by the truth.
>
> Hatred does not cease with hatred, hatred ceases only with love. This is the ancient rule.

These are the words of Buddha, and Christ expressed himself thus:

> Ye have heard that it hath been said, Thou shalt love thy neighbor and hate thine enemy.
>
> But I say unto you, Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you;

> That ye may be the children of your Father which is in heaven; for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust.
>
> For if ye love them which love you, what reward have ye? do not even the publicans the same?
>
> And if ye salute your brethren only, what do ye more than others? do not even the publicans so?
>
> Be ye therefore perfect, even as your Father which is in heaven is perfect.

There is no doubt that even the most fervid Buddhists will prefer the words of the Gospel this time!

August 9, 1912.

WOMAN IN BUDDHISM AND CHRISTIANITY

As it is to-day and as it was in the past, so will it be in the future: together with the maternal voice of one's country two great problems excite and stir people—especially in free countries—the religious and the economic.

To defend God, to deny Him, to see Him as the highest expression of the ideal, to give designs of empire over the souls of men; or else a new form of taxation; the most sublime thoughts and the most earthly have the power to move us, to lift up or depress our spirit, at times to lash us to fury. We need not wonder, therefore, if the study on the superiority of the two greatest religions of the world (Christianity and Buddhism) has the power to agitate and irritate our conscience.[1] May we not, however, discuss calmly and not lose our philosophy after achieving religious freedom? Let us not excommunicate this or that person in the name of scientific research, the results of which become more and more uncertain as we plumb the depths of the mystery of our origin, and let us keep in mind that a lay inquisition may be even more perfidious than a priestly one. Let us not condemn one another in the study and possible solution of such formidable problems; and we may well here invoke the motto of an ancient father of the church, so completely forgotten at times by laymen and priests: *In necessariis unitas, in dubiis libertas, in omnibus charitas.* One of the necessities in the study of such problems is free inquiry asking for mutual charity.

The superiority of the Old and New Testaments in the cult of woman's purity could be easily contested, according to eminent Sanskrit scholars; strict monogamy should not have a decisive effect in determining this moral superiority; woman in Asia is not *rejected*, just as she is not *redeemed* in Christianity and still less in Judaism. There is exaggeration on the one side and the other—I was told—and whoever tries to maintain the ethical superiority of Christianity—as the writer did—is claimed to be mistaken.

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[1] After the publication of my article I received hundreds of letters, which I am trying to answer here.

Let us now consider with disinterested calm the reasoning of our distinguished opponents.

I have set forth the terms of the controversy with Professor Formichi, the greatest of these opponents, because he who is his equal is silent:

> You are mildly irritated and would like to cut short our controversy? Buddha would have continued it, he who was much less sparing of words than Christ. The point that you forget is the condition of women in Buddhism and in Christianity, in Asia and in our civilization. There is a whole recent literature, in which eminent Asiatic writers have also participated, which recognizes the absolute inferiority of the Oriental continent. Now there is an effort made to gain back in the education of women the time that has been lost. But it is not only a problem of culture that confronts us, but also one of social, juridical and essentially moral position. Polygamy, monogamy and all the rest; woman, who may become a leader and a saint in the Old and New Testaments, woman, who is the saint of the family.

I received this answer: "In everything you depress or exalt too much. There are two sorts of Buddhism, just as there are several forms of Christianity, pure and degenerate." I feel a profound respect for Buddhism, while I find it—especially from the ethical point of view—inferior to Christianity. Every god is evolved and is perfected; every principal religion is born in a pure movement of the heart, passes through idolatry, and tries then to go back to its ideal origin. But idolatry without God, as in Buddhism, seems to me more strange and dangerous than idolatry with God.

Going back to the essential point of our controversy, which is the respect due to women, Professor Formichi, for whose sincerity and scholarship I have the greatest respect, maintains that polygamy was an exception in the Vedic age and that monogamy was the rule. The ancient nuptial hymns of the *Rig* and *Atharva Veda* permit us to reconstruct a family life almost worthy of the patriarchs, in which woman is the queen of the home, and never does the husband approach the altar to pray or offer sacrifice to the gods without her. In the Vedic age, woman is truly the mate of man. And if we leave that remote origin of Hindu life we find nothing in succeeding centuries which may justify the belief—now inveterate with Europeans—that the condition of woman in India and in other parts of Asia is one approaching servitude, if not slavery.

In the *Upanishads* we find learned women who discuss the knowledge of the absolute with the greatest philosophers, and who turn their back on the world in order to lift themselves up to liberating knowledge. The famous sage Jâjnavalkya wishes to leave his wife Maitreyî in order to give himself up to ascetic life and meditation. He calls her, announces his determination and to quiet her speaks of an advantageous division of property. "My lord," said Maitreyî, "were all the earth with all its wealth mine, should I become immortal?" "Never," answered the sage, "thy life would be that of the rich; but as for immortality, to reach it by way of riches is a vain hope." And the wife says: "Of what avail is that which is not a pathway to immortality? Make me rather, O lord, a participant in the wisdom which thou possessest." And the sage answers: "Thou art indeed dear to me and utterest dear things; come and sit near me, I shall explain all to thee, and be thou attentive to what I tell thee."

It is true, there is nothing like that in the Gospel; not even the Old Testament has anything similar. We must go back to Plato to find some type of woman who can compare with Maitreyî in aristocratic tone of thought and eminence of mind. But we have always before us the unpleasantness which is inseparable from polygamy, the pariahs, the untouchable men and women—and then we find consolation in reading this:

> It has been said, Whosoever shall put away his wife, let him give her a writing of divorcement. But I say unto you, that whosoever shall put away his wife, saving for the cause of fornication, causeth her to commit adultery; and whosoever shall marry her that is divorced commiteth adultery.
>
> Ye have heard that it was said by them of old time, thou shalt not commit adultery. But I say unto you, that whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart.

The learned woman of India or Greece is admirable, but the pure woman is she of the Bible. Christ's doctrine always turns to highest and most intimate spirituality. To be guilty of adultery a glance, a thought of lust is sufficient. We may eat anything, we are not contaminated by what enters the mouth but by what issues from the heart. The widow's mite is worth a great deal, in proportion to the sacrifice that it cost. Wealth and poverty exist or have an influence over man only through the mastery which they exercise over his mind. We may be poor and love wealth, with that passion which contaminates and kills the spirit of man. Blessed therefore are they who use the gifts and boons of this world without placing their hearts in them and without being fettered by them. The kingdom of heaven is within us.

"But," my opponent objects, "you are a mystic, and inclined to Christianity." "No, no, I am a theist, outside every church, one who sucks honey from every faith, from every philosophy; and considering religions as facts of human natural history I defend their liberty and feel injured by every offense to every creed, whichever it may be." "But you have not read the sublime sentences of the Mahâbhârata on woman." "Yes, yes, I have read them." ("Who is the true hero? He who succeeds in conquering his senses. Who is the beloved one? The faithful wife. . . . Water contains all germs, woman all joys, pity all virtues.")

Great expressions are these, forestalling the two sacred Bibles; and the immortal artistic creations of Sitâ, Damayantî, Sâvitrî, Sakcuntalâ are also admirable, for they show how much India could know, interpret, value and sublimate the feminine heart and the heroism of which it is capable, *but in an aristocratic circle.* Who does not prefer these women, who follow their husbands in their meditation and renunciation of every human pleasure, to the Aspasias of Greece? But the strong women of the Bible, the women of the Gospel who must not arouse profane desires, are even more exalted. And where have we seen a greater degradation and degeneration of woman than in China, in spite of verses fifty-five and sixty of Manu's code?

> Fathers, brothers, husbands, brothers-in-law, if they desire prosperity, must honor and worship the woman of the house. In those families where women are honored the gods are pleased to dwell, but in those where they are not honored every sacred rite is vain. Those houses that are cursed by ill-treated women fall into complete ruin, as if they were stricken by a devastating spell cast over them. In the family where the husband is content with his wife, and the wife with her husband, fortune goes to stay, always and steadily.

Excellent advice this, if it could be reconciled with several wives and a single husband!

Nor is Buddhism very different from Brahmanism. Buddha hesitates to receive women in his order. Professor Pavolini—a most learned Sanskrit scholar—tells us how the Master did it unwillingly, yielding to his aunt Gautamî's solicitations, and refers to the following words of the Sublime One:

> If, O Ananda [his most beloved disciple], entrance into the order and the law had not been granted to women, the life of sanctity, O Ananda, would have lasted for a long time; for a thousand years the doctrine would have preserved its purity. Now that access has been permitted to women, not for long will the life of sanctity last, and only for five centuries will the doctrine remain pure.

Elsewhere Ananda questions the Master:

> "How, O Blessed One, must we behave towards women?" "You must avoid looking at them, O Ananda." "And if, notwithstanding our endeavor, we look at them, what must we do?" "You must not speak to them, O Ananda." "And if we spoke to each other, O Master?" "Then, O Ananda, you must watch yourselves."

Between these suspicions of the Master, who considers woman as a fount of evil, and the cult of Mary in Christianity, in whose regal bosom even the poor, lonely old woman lays her tears, despised by others, we find the measure of the two doctrines on woman.

Woman is in a condition of sin in Buddhism, if, according to Buddha's strong expression, she does not transcend femininity. In the two Testaments she is the joy of the family, the basis of social life, if she preserves her purity. "But the redemption of the sinning woman, with which the Gospel opens, how much more beautiful it is in Buddhism," says our eminent opponent. Professor Kerbaker has translated an admirable Indian drama, the *Mrcchakatik*, which treats of the redemption of a courtesan. Vasantasená is greater than Marion Delorme or the Lady of the Camellias; this Indian Aspasia knows how to keep her soul pure in the midst of vice, to which her birth has condemned her. That is true, but I prefer the Magdalene of the Gospel in substance if not in form, as Brahmanism is at times unsurpassed in the color of its style. The farewell of Sakuntalâ, who must return to the royal palace, to the old trees among which he has lived; his farewell to the animals that kept him company, brings tears to our eyes even to-day, and stirred the feelings of an English audience when that drama was performed a few weeks ago in Cambridge. Schopenhauer may be partly right when he calls the old French gallantry "the most conspicuous fruit of the Christian-Germanic idiocy," but I am on the side of the pure and strong woman of the Bible; she surpasses all the others, and is the most effective refutation of French gallantry.

Since I admire Buddha, especially for his admirable and immortal ideas on religious freedom, which—inherited and proclaimed by the great King Asoka—will remain in the science of constitutional law, I too would have wished that Buddhism had had a Mary of Bethany. Surely our feeling of idealism is offended by the fact that no woman attended Buddha at his deathbed.

Asia is conscious of the inferior position of woman; this is the strongest confirmation of our thesis. This is proved by Bland and Backhouse's works on China under the late dowager empress, and that by the Viscount of Ollone; by the autobiography of His Highness Nawab Sultan Jahán Begam, by Mabel Bacon's writings on Japanese women, etc. These studies are now excellently illustrated by Nihal Singh. It is a general cry of protest against the abasement of the women of Asia, and it shows the necessity of educating and elevating them, and giving them the rights and social position which they lack. The late emperor of Japan initiated this great work in 1871 by issuing the *Charter for the Liberation of the Japanese Woman*, in which are these memorable words: "The education of children depends on the way in which woman is treated; therefore the education of women is a subject of supreme importance."

Although the Japanese showed in their proverbs the greatest distrust of women ("Even though a woman has given thee seven children, trust her not. A woman's tongue is only three inches long, but it can kill a man six feet tall."), the new civil legislation of Japan makes them almost the equal of men. In 1909-1910 there were in the Japanese schools 3,461,442 female students and 3,875,950 male. Fifty years ago the women of Japan were nearly all illiterate! To-day the Women's Patriotic Association of Japan has 784,000 members recruited from all classes of society, from the greatest ladies to the humblest workers. And while in ancient Japan woman was considered only a servant of man, an imperial decree of 1875 gives her equal rights in matters of divorce with her former lord and master. Japanese women are now allowed to vote, under certain restrictions, for municipal councils and chambers of commerce. Even for the Chinese woman an era of emancipation has begun. The Chinese woman, not the Manchu, was condemned from infancy until death to binding her feet; she was nothing but a piece of furniture in the home, notwithstanding Manu's golden saying.

The Christian missionaries without exception attribute the inferiority of the position of woman in Asia to the low ideals of religious beliefs. The Asiatic writers are now defending themselves, and my controversy with Professor Formichi is renewed in other countries with passionate intemperance of arguments. The Eastern writers search in their purest ancient sources, and find in them examples of profound respect toward women which they quote in their request for moral and intellectual uplift. Naturally neither the European missionaries nor their Asiatic opponents possess the equitable indifference of the historian, and religious hatred shows its habitual partiality in the controversy. But however that may be even Asia is moving, even in Asia the deliverance of women from ancient bondage is making great progress. The rigidity of Buddha is tempered with the ineffable mildness of Christ, and the Oriental woman is starting on her struggle for betterment with her Occidental sister. Who will win? Is this a matter for woman, for man, for the two civilizations in contact, in contrast, perhaps in a process of blending together? Meanwhile our thesis of the moral superiority of one religion over the other finds in an essential point, in the manner in which the woman of Asia is treated, the sanction of the new Asiatic literature, and we are happy to have invoked its help in the weighty controversy.

I may be mistaken; but as I am neither a Christian nor a Buddhist, and as I am ignorant—to my great misfortune—of the sacred Sanskrit and Palî languages, only love for my fellow creatures and for truth makes me speak.

My ignorance is saving my disinterestedness, and gives me hope of approaching accuracy in this great controversy. Were I mistaken there exists no pledge of religious or philosophical faith that might compel me to remain in error.[2]

October 8, 1912.

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[2] Concerning the position of women in Brahman India Rabindranath Tagore has written a notable article published in *The Visva-Bharati Quarterly* of July, 1925.

It is a known fact that India is awaiting the birth of Kumára, the conqueror of evil, and every Hindu maiden thinks that the high mission of this birth might be reserved for her. Therefore the husband is for the Hindu maiden an idea, a principle (like loyalty and patriotism) and while she is not on a footing of equality with him, she does not feel humiliated. She is not yielding to the brute force of a man, rather she is consecrated to the service of her ideal. Thus does Tagore—as befits his nature as a poet—uplift and almost sublimate the existing state of inferiority of women in his country.

TAGORE AND THE OCCIDENT [1]

To Clary Zannoni-Chauvet:

You have asked me, dear friend, to consent to the publication of this article on Tagore, which I wrote some time ago, and which may serve as an introduction to your fine translation of *The Crescent Moon.* I am happy to satisfy you and accede to your request, made in such a kind way that it induces obedience.

Tagore is an Oriental poet, transplanted to the Occident; a Brahmin, a Buddhist, converted to our civilization. This I have wished to demonstrate, and I hope that a discussion will follow in calmer times. Thus will your translation be the cause of a controversy, not useless, perchance.

ROME, January 20, 1915.

In the fall of 1913 the Nobel Prize for literature was awarded to the great poet of Bengal, and it seemed to many that Europe would pronounce, with the judgment of Stockholm, an impartial and generous eulogy of an exotic and peculiar art, of a civilization different from ours, of a whole world of distant and foreign ideas and feelings. It was almost as if the mystical authors of the Upanishads, Vâlmîky and Kâlidâsa, and the Vedic bards were praised, extolled and given a prize together with Tagore. For some people it was as if Europe bowed before Brahma and Buddha, before the innumerable myths preserved in the epic narrative of the deeds of the Bharata and Râma, and the masterly descriptive style with which Kâlidâsa and Bhartrhari revive before our eyes the wonders of a luxuriant and tropical climate. But perhaps Europe did not do all of that; perhaps, by approving and applauding the Stockholm award, Europe wanted to praise itself, its own religion, its own customs, its own aspirations. . . .

Tagore is an Oriental by birth, but an Occidental, an Anglo-Saxon in all else. He has left behind him the gods and the sagas of his native country, the age-old doctrines pointing to the road of renunciation; and he has become the most conspicuous example of the modern man of India, attracted by the dazzling light of Western civilization, capable of assimilating it, and deriving from it so much profit that at the end the teacher is almost surpassed by the pupil.

Let us open the collection of his hymns entitled *Gitanjali*, and at once whoever has even a superficial knowledge of the poetry of ancient India is surprised to find in every canto the poet himself as a protagonist. The ego crops out everywhere, in such a way as to cause the bones of all the ancient writers of India—scholars, philosophers, grammarians, physicians, poets, jurists—to tremble in their graves. In the introduction to the code of Kautilya, edited and published a few years ago by Shama Sastri, we read that when a poet of India must speak of himself at a certain point in his work he is embarrassed, and to escape the charge of presumption never uses the pronoun *I*, avoids saying *we*, and is reduced to mentioning his name, as if he spoke of another person. We do not know the name of the author of many important Indian literary works, and we possess only sparse and uncertain biographical notes on the most celebrated poets and philosophers of India. The individual hides himself in India, the idea is everything. Among the most difficult things in this world is that of putting together the history of the Indian people. History is written with single, concrete, individual facts; India refuses to know about these; hence it has no history. We may call this a defect, but we must acknowledge the virtue emanating from it, which consists in a desire, almost a mania, to escape egotism, to cancel one's individuality, to the profit of the idea, of the work in itself and for itself. India interests us because it has gone farther than we have in certain directions, and just because it was often led into error it can offer us useful lessons. Nothing can be learned from those who possess our own virtues, but how many useful warnings may we obtain from those who have erred!

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[1] Introduction to the Italian translation of *The Crescent Moon*, published by Clary Zannoni Chauvet (Carabba, Lanciano, 1920).

To go back to Tagore, we may say at once that adopting the lyric form, which affords the poet the opportunity of becoming the center of his poem, he has broken not only the poetic tradition of his native country but also every bond which could tie him to his forebears' ways of feeling and forming ideas. We have therefore a new phenomenon in India: a poet speaks of himself, and in addition, when he translates his own verses into English, he is obliged to write hundreds of times with a capital letter the pronoun of the first person singular. The art of Sappho and of Catullus, of Petrarch and of Shelley, has finally been transferred to the land bathed by the sacred Ganges!

Tagore does not know a more noble and effective manner of worshiping God than by work and action. Litanies, orisons, prayers murmured in silent contemplation, flowers brought to the altar, incense, mystic meditations, do not reveal the Lord to man, but on the contrary they remove Him further and alienate Him:

> Leave this chanting and singing and telling of beads! Whom dost thou worship in this lonely dark corner of a temple with doors all shut? Open thine eyes and see thy God is not before thee!
>
> He is there where the tiller is tilling the hard ground and where the pathmaker is breaking stones. He is with them in sun and in shower, and his garment is covered with dust. Put off thy holy mantle and even like him come down on the dusty soil!
>
> Deliverance? Where is this deliverance to be found? Our Master himself has joyfully taken upon him the bonds of creation: he is bound with all of us for ever.
>
> Come out of thy meditations, and leave aside the flower and incense! What harm is there if thy clothes become tattered and

> stained? Meet him and stand by him in toil and in the sweat of thy brow.[2]

Elsewhere[3] the poet speaks even more explicitly: "Indissolubly united are actions and life. We Indians are inclined to contemplation and averse to action. . . . But true freedom does not consist in losing oneself in inertia."

Tagore could well derive his cult of labor from the ancestral literature, overflowing with expressions in praise of activity and of exhortation to undertake the work to which every one of us is called in this world. The most conspicuous evidence of this is found in the Bhagavadgîtâ, which may well be called the textbook, the Gospel of every cultured Hindu. And the Bhagavadgîtâ is an episode of the venerable Mahâbhârata, which was for at least fifteen centuries the spiritual book of the people of Hindustan.

In the third canto of the Bhagavadgîtâ, at the beginning of the fourth stanza, we read:

> A man does not attain freedom from action merely by not engaging in action; nor does he attain perfection by mere renunciation. For nobody ever remains even for an instant without performing some action; since the qualities of nature constrain everybody, not having free will [in the matter] to some action. The deluded man who, restraining the organs of action, continues to think in his mind about objects of sense, is called a hypocrite. . . . Do you perform prescribed action, for action is better than inaction, and the support of your body, too, cannot be accomplished with inaction.[4]

To this, however, ancient India has always added: "Act therefore we must, but with quelled senses, with complete detachment from the frail things of this world, with the mind all turned to God and only to God."

In the Bhagavadgîtâ the admonition that the man of action must keep himself indifferent to the fruit of action and succeed in making himself superior to earthly joys and sorrows, is repeated hundreds of times, constitutes the quintessence of the doctrine, and is the dominating *leit-motif* in the song of the Blessed. In other words, the greatest merit is obtained when we cause the internal renunciation to correspond to the external activity, when the senses, these great enemies of man, are subjugated; the organs operate under the guidance of reason; and joy or sorrow, love or hatred, hope or fear, are all silent. The extinction of desire, and renunciation, form the keystone of every religion and every philosophical school of ancient India. Our world is a world of error and pain, the senses are deceptive; when the former is discovered, unmasked and denied, the latter are restrained, and there rises only the ineffable vision of the other world, full of light and of truth, the vision of God.

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[2] *Gitanjali*, II.

[3] *Sâdhanâ*, p. 124.

[4] English translation by Kâshinât Trimbak Telang, M. A., *The Bhagavadgîtâ with the Sanatsugâtîya and the Anugîtâ*, in *The Sacred Books of the East*, translated by various Oriental scholars and edited by F. Max Müller, Vol. VIII, Oxford, The Clarendon Press, 1882. (Translator's note.)

It is just here that Tagore breaks with the religious and philosophical tradition of his country, proclaims life worthy of being lived and full of delight; condemns renunciation and wants the door of the senses to remain open:

> Deliverance is not for me in renunciation. I feel the embrace of freedom in a thousand bonds of delight.
>
> Thou ever pourest for me the fresh draught of thy wine of various colors and fragrance, filling this earthen vessel to the brim.
>
> My world will light its hundred different lamps with thy flame, and place them before the altar of thy temple.
>
> No, I will never shut the door of my senses. The delights of sight and hearing and touch will bear thy delight.
>
> Yes, all my illusions will burn into illuminations of joy, and all my desires ripen into fruits of love.[5]
>
> Let all the strains of joy mingle in my last song—the joy that makes the earth flow over in the riotous excess of the grass, the joy that sets the twin brothers, life and death, dancing over the wide world, the joy that sweeps in with the tempest, shaking and waking all life with laughter, the joy that sits still with its tears on the open red lotus of pain, and the joy that throws everything it has upon the dust, and knows not a word.[6]
>
> I was not aware of the moment when I first crossed the threshold of this life.
>
> What was the power that made me open out into this vast mystery like a bud in the forest at midnight?
>
> When in the morning I looked upon the light I felt in a moment that I was no stranger in this world, that the inscrutable without name and form had taken me into its arms in the form of my own mother.
>
> Even so, in death the same unknown will appear as ever known to me. And because I love this life I know I shall love death as well.
>
> The child cries out when from the right breast the mother takes it away, in the very next moment to find in the left one its consolation.[7]

Do we need any more examples to demonstrate how much Tagore's mentality differs from the usual Hindu cast of mind, and how near it comes to the Western mode of thinking? He seems to draw his inspiration more from the English poets than from the poets and philosophers of India. When he speaks of the joy that bursts forth with the tempest, shaking and waking all life with its laughter, we are reminded of the impetuous western wind sung by Shelley, which pushes forward the dry leaves to reanimate a new birth. Similarly, when he feels pulsating in his veins that same stream of life which runs through the world and dances in rhythmic measure, when he sings with winged words the coming and passing of the seasons, when he feels himself a part of God, animator of the universe, it does not indeed seem as if we were listening to the echo of the mystic formula of the Upanishads—*that one art thou*—but rather to the echo of voices much nearer to us, the voices of Byron and Shelley, singing hymns to the pantheistic God:

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[5] *Gitanjali*, 73.

[6] *Idem.*, 58.

[7] *Idem.*, 95.

Some kinder casuists are pleased to say
In nameless print—that I have no devotion
But set those persons with me to pray
And you shall see who has the properest notion
Of getting into heaven the shortest way;
My altars are the mountains and the ocean,
Earth, air, stars—all that springs from the great whole
Who has produced, and will receive the soul.[8]

. . . .

Ah, woe is me! Winter is come and gone,
But grief returns with the revolving year;
The airs and streams renew their joyous tone;
The ants, the bees, the swallows reappear;
Fresh leaves and flowers deck the dead seasons' bier.

Through wood and stream and field and hill and ocean
A quickening life from the Earth's heart has burst
As it has ever done, with change and motion,
From the great morning of the world when first
God dawned on Chaos. . . .

He is made one with Nature; there is heard
His voice in all her music, from the moan
Of thunder, to the song of night's sweet bird;
He is a presence to be felt and known
In darkness and in light; from herb and stone,
Spreading itself where'er that Power may move
Which has withdrawn his being to his own;
Which wields the world with never wearied love,
Sustains it from beneath, and kindles it above. . . .

The One remains, the many change and pass;
Heaven's light forever shines, Earth's shadows fly;
Life, like a dome of many-colored glass,
Stains the white radiance of Eternity
Until Death tramples it to fragments.[9]

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[8] Byron, *Don Juan*, Canto III, stanza 104.

[9] Shelley, *Adonais*, XVIII, XIX, XLII, LII.

Tagore was educated in the school of this pantheism, and if, as it is said, he protests that he wishes to follow the ancient doctrine of the Upanishads this can be explained by the eclectic character of the modern Hindus, who feel disposed to reconcile, and capable of reconciling, the most opposed tendencies and the most varied doctrines. I have read somewhere the story of a young Hindu student who—under the guidance of an English professor of philosophy—wrote a dissertation in defense of the theory of evolution advocated by Darwin and Herbert Spencer, and found it quite natural to open his work with an invocation to the god Shiva!

But it is exceedingly important not to generate confusion when we wish to render quite clear the dividing lines of opposed and discordant doctrines. We who belong to the Western world, and are obstinate asserters of life, worshipers of beauty, eager to perpetuate our own personality even beyond the grave, perplexed and dismayed before death, in spite of our faith in the resurrection of the flesh or the indestructibility of matter—we occidentals find ourselves with our ideas, our feelings and our civilization in direct contrast to the people of ancient India, who evidently sought a path quite different from that which we follow. Life for the true Hindu is composed of evil and sorrow, and the wisest course for a man is that of renunciation, which is the acme of wisdom. A psychological state which excludes renunciation of worldly joys may be that of a poet but not of a saint. The true religious sentiment shines when earthly allurements find us insensible, when name and shape, space and time, disappear, and the vision of eternity appears in their place. This is what India has repeated in grandiose and suggestive tones for three thousand years of her spiritual life. Is India right, or are we? This is the great problem, the terms of which must not be obscured. This is not the place to reason about it, as I said elsewhere in arguing with Professor Formichi about the principal reasons which, to my mind, attest the superiority of the Old and New Testaments, of our civilization, of the grafting of the roses of Hellas on the thorns of Galilee.[10]

But it is vain to reconcile yea with nay. However strange, dangerous and melancholy may seem the point of view from which the ancient thought of India derives, this thought is what it is, and it is decidedly opposed to ours. Now what was the side taken by the great new poet of India? Undoubtedly our side: he loves, adores life with all its sweet illusions and dear realities, and his genial winged song seems made to acquaint his fellow countrymen with the motto of our divine Leonardo: "Whoever fails to esteem life does not deserve it."

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[10] Professor Formichi *worships* the sublime and solitary monolith of the philosophy and religions of India, I only *admire* it. And while I confess I am only a disciple of his in such studies I dissent from him and freely argue with him. I owe a debt of gratitude also for guidance in these researches to Senator De Lorenzo, from whose conclusions, however, I also dissent.

And to give our opinion a "seal all men to undeceive" I shall quote the following eloquent passage from Tagore's *Gardener:*[11]

> At midnight the would-be ascetic announced:
>
> "This is the time to give up my home and seek for God. Ah, who has held me so long in delusion here?"
>
> God whispered "I," but the ears of the man were stopped.
>
> With a baby asleep at her breast lay his wife, peacefully sleeping on one side of the bed.
>
> The man said, "Who are ye that have fooled me so long?"
>
> The voice said again, "They are God," but he heard it not.
>
> The baby cried out in its dream, nestling close to its mother.
>
> God commanded, "Stop, fool, leave not thy home," but still he heard not.
>
> God sighed and complained, "Why does my servant wander to seek me, forsaking me?"

We have here the apotheosis of the family and the harshest censure of the ascetic life. No one can fail to notice how Buddha, like the ascetic of Tagore's imagination, conceives and executes the design of leaving the royal palace and becoming a hermit. He departs from his home, while his wife Yasodharâ and his son Râhula are asleep, not suspecting the misfortune of the Sâkya dynasty, and sets forth in the wilderness for the liberation of mankind from the ocean of sorrow. Even if Tagore did not intend to strike directly at the person of Buddha in his song we have here blame and depreciation of the whole ethical system, the entire ideal world created by the Sublime Awakened.

The coincidence, which I think I must mention here, is strange at first sight. A great poet of modern India, of that India which seems to be awakening young and vigorous under the vivifying breath of Western civilization, attempts to strip off the leaves of Buddha's laurel; and in Europe the greatest English lyric of modern times, and the greatest Italian lyric of unified Italy, both reproach Christ for the decline and fall of classic civilization, and the former calls the Gospel the destroying truth.

In Shelley's song entitled *Hellas* we find the following stanza:

> Swift as the radiant shapes of sleep
> From one whose dreams are Paradise
> Fly, when the fond wretch wakes to weep
> And day peers forth with her black eyes,
> So fleet, so faint, so fair
> The Powers of earth and air
> Fled from the folding star of Bethlehem.

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[11] *The Gardener*, 75.

Apollo, Pan and Love
And even Olympian Jove
Grew weak, for killing Truth had glared on them;
Our hills and seas and streams
Dispeopled of their dreams,
Their waters turned to blood, their dew to tears,
Wailed for the golden years.

The Italian poet Giosue Carducci was undoubtedly inspired by these lines of the English lyric when he wrote:

. . . Rome now
Triumphs no longer
Triumphed never more, from the day that
Red-haired Galilean the Capitolian
Heights ascended, threw her his cross and bade her
"Bear it and serve me."
Fled the nymphs dismayed to their fountains weeping
Or within the sheltering tree-trunks vanished
Shrieking, all the Oreads melted, like the
Mist on the mountains,
When a weird black company through the ruined
Marble shrines and fall'n colonnades came chanting
Mournful psalms and litanies, slowly pacing
Clothed in dark sackcloth,
And of plains resounding with human labor,
Hills that once imperial glory witnessed,
Made a dreadful desert, and called the desert
"Kingdom of Heaven." [12]

The same cause placed in Tagore's mouth the reproach against Buddha, and in the mouth of Shelley and Carducci the expostulation against Christ. The coincidence is not strange, because human history repeats itself with distressing uniformity. But Carducci has retracted his words and become reconciled with Christ, who is more human than Buddha because he holds in himself the cult of real life purified by God.

Tagore's poetical writings are collected in four volumes: *Gitanjali, Sâdhanâ, The Crescent Moon, the Gardener.* In the first two the poet gives us in short hymns and essays his religious and philosophical faith, of which the reader has had here a brief but, I hope, a clear and precise account. The third volume, *The Crescent Moon,* is dedicated to childhood and the fourth contains a collection of poems on different subjects. The author originally wrote his harmonious verses in Bengali, his mother tongue, and has translated his work himself into a pure, fluent and elegant English.

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[12] The English translation is from *Carducci, A Selection of His Poems,* with verse translation, notes and three introductory essays, by G. L. Bickersteth, M.A., London, Longmans, 1913. (Translator's note.)

Whatever superficial critics may say I cannot succeed in tracing the soul of ancient India in this modern Bengali poet. Tagore's thought is not only clearly western, or rather Anglo-Saxon, but the style, the similes, the descriptions that are found in his poems contain only a pale reminiscence of the ancient Hindu poets.

We shall now try to prove our assertions. Tagore says:

> Clouds are gathering upon clouds and it is growing dark.
>
> O, my love, why dost thou leave me alone to wait outside the door?
>
> In the bustling moments of the meridian work I am with the crowd, but in this lonely dark day my hope is only of thee.
>
> If thou showest not thy face to me, if thou leavest me thus in a corner, I know not how I shall pass these long hours of rain.
>
> I linger to look at the distant darkness of the sky, and my heart wanders moaning with the restless wind.

Where is here the scenery of India? Would not a poet speak in a similar vein of the clouds, the rain and wind on the banks of the Thames?

Do you wish now to have India before your eyes, the real India sung by its true poets? Open *The Little Clay Cart*, which my eminent friend Professor Kerbaker translated into Italian, and you will read:

> Behold, where yonder ponderous cloud assumes
> The stature of the elephant, the storks
> Entwine a fillet for his front, and waves
> The lightning, like a *chouri*, o'er his head.
> Observe, my friend, the day is swallowed up
> By these deep shades, dark as the dripping leaf
> Of the tamála tree, and, like an elephant
> That cowering shuns the battle's arrowy sleet,
> So shrinks the scattering ant-hill from the shower.
> The fickle lightning darts such brilliant rays,
> As gleam from golden lamps in temples hung,
> Whilst, like the consort of a humble lord,
> The timid moonlight peeps amidst the clouds.
> There, like a string of elephants, the clouds
> In regular file, by lightning fillets bound,
> Move slowly at their potent god's command,
> The heavens let down a silver chain to earth;
> The earth, that shines with buds and sheds sweet odors,
> Is pierced with showers, like diamond-shafted darts
> Launched from the rolling mass of deepest blue,
> Which heaves before the breeze and foams with flame;
> Like ocean's dark waves by the tempest driven,

And tossing high their flashing surge to shore.
Hailed by the peafowl with their shrillest cries,
By the pleased storks delightedly caressed,
And by the provident swans with anxious eye
Regarded, yonder rests one threatening cloud
Involving all the atmosphere in gloom.[13]

This is the real India with her fauna and her flora, with her vivid coloring, with her magnificence, her redundancies and intemperance, with her virtues and her defects. But how much simplicity, how much measure, on the contrary, are in the lines of the modern Indian poet, in whose ears resounds the poetry of Coleridge, Shelley and Keats more than the stanzas of Sudraka and Kâlidâsa!

The Tagore phenomenon, if we call it that, is highly interesting. It proves how the lesson which strong, vital, and sometimes brutal Europe was to impart to India, corroded by an exaggerated mysticism, has already produced its fruits. India is awakening, takes on flesh, strengthens her nerves, turns away her eyes from the past and looks into the future.

The Irish poet William Butler Yeats tells us in his introduction to *Gitanjali* that, speaking with a distinguished Bengali physician, he heard him say: "We call this the epoch of Rabindranath. No poet seems to me as famous in Europe as he is among us. He is great in music as in poetry, and his songs are sung from the west of India into Burmah, wherever Bengali is spoken."

And who is there who may doubt the awakening of India when he knows that her beloved poet speaks to her of greatness and freedom in these virile words:

> Where the mind is without fear and the head is held high;
> Where knowledge is free;
> Where the world has not been broken up into fragments by narrow domestic walls;
> Where words come out from the depth of truth;
> Where tireless striving stretches its arms toward perfection;
> Where the clear stream of reason has not lost its way into the dreary desert sand of the dead habit;
> Where the mind is led forward by Thee into ever-widening thought and action—
> Into that heaven of freedom, my Father, let my country awake." [14]

The Nobel prize could not be better awarded: Europe has rewarded India, which has profited by her teachings. And we are left to wonder if perchance Europe has not something to learn from India?

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[13] The English text is from *The Little Clay Cart, in Select Specimens of the Theatre of the Hindus*, translated from the original Sanskrit by Horace Hayman Wilson, M.A., F.R.S., London, Trubner and Co., 1871. (Translator's note.)

[14] *Gitanjali*, 35.

The times in which we live ought to teach modesty even to the haughtiest inhabitants of our small planet.

THE RELIGION AND PHILOSOPHY OF INDIA IN THE WORKS OF RABINDRANATH TAGORE [1]

(A Correspondence)

EXCELLENCY:

I have received the fine translation of Tagore's poem and I have read again in our harmonious language the images which I loved when I first read them in the English version. I have been greatly interested in the learned introduction, but I must confess that the contrast between the character of the Hindu race and the cult of action which animates the poet of *Gitanjali* does not appear to me as sharp as it seems to you. This is perhaps because I always thought that the entire Hindu race constitutes a mass of contradictions in itself. It almost seems to me as if the two ancient stocks, the Aryan and the Negroid, which contributed to its formation, have not found the way to reconcile their sharp ethnic characters after so many centuries. For this reason it is so easy to find in India people for all tastes, theories for all scholars, and proselytes for all sects. Buddha, who preaches renunciation, is side by side with Kâlî, who advises satiety. And the philosopher of contemplation will be condemned to finding proselytes who will raise titanic monuments for every speck of his ashes, filling the Orient with their monstrous *dagobes*.

But who knows what will grow from the seed that one sows? Surely the Enlightened One did not foresee the fetichism that was to arise about his name.

The words of Tagore's prisoner may be applied to him as to many others: "I thought that my invincible power would have subjugated the world, leaving me free, and I worked at this chain, and when my work was finished I perceived that the chain held me in its shackles."

With renewed thanks to Your Excellency, etc.,

NAPLES, January 10, 1916.

HELEN OF FRANCE,
Duchess of Aosta

YOUR HIGHNESS:

Mine has been a true renunciation in delaying my answer to the profound and kindly observation that Your Highness has been pleased to make about my preface to Tagore's *Crescent Moon.* Taking my example from Your Highness, who gives all of herself in works of sublime charity, I have devoted all my energy to the promotion of the Victory Loan, and I trust that I have in some measure contributed to promote those vital forces without which the very sources of charity would go dry. In the name of my indirect coöperation in the incessant and enlightened charity practiced by Your Highness with evangelical modesty, I dare to ask forgiveness for the delay and perhaps also, given the circumstances, praise.

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[1] Having presented to H. R. H. Helen of France, Duchess of Aosta, a copy of Rabindranath Tagore's *Crescent Moon,* translated into Italian with the preface I had written for it, I received from Her Royal Highness the above letter, in which new and interesting observations were made. This gave me occasion to discuss once more some fundamental problems of Hindu religion and philosophy.

If it be true that literature is the most faithful reflection of the soul of a people, it cannot be doubted that renunciation, the emancipation from the shackles and fetters of life, constitutes the fundamental dogma of both the cultured and uncultured Hindu since the time when, six centuries before our era, the sages of India initiated their meditations anent the illusory nature of the world, the *Mâyâ*, and thought they were discovering in Brahma, one and unfailing, the sole reality. To be reabsorbed in Brahma meant to sink one's individuality, deny one's ego, remove one's senses from the external world, and allow oneself to be intoxicated by meditation and mystic elevation. All this is renunciation, it is the desire to substitute for the world of error and sorrow another world made of truth and ineffable delight. It was not only the Enlightened One who preached renunciation, but before him it was preached by the philosophers of the Upanishads, and with him the Jainas and all the other sects produced by that land, more fertile in religion than any other in the world. Nor did the firm belief in the vanity of worldly things find support only in theosophic books and philosophers' schools, but it took deep root in the whole nation, so that jurists, physicians, astronomers, politicians, novelists, epic and lyric poets, dramatists, all repeat the same expressions: the world is variable and transitory, what passes and does not last is not deserving of a single beat of our hearts. The senses are deceptive and they make us drink a poisoned beverage by means of a few drops of honey. All virtue lies in freeing oneself from the slavery of pleasure, in uprooting desire and the feeling of love and hatred, becoming totally absorbed in the blessed *Atarassia.* It may be that I was wrong in perusing so many Hindu classics, but the fact remains that the apotheosis of renunciation prevails in that literature, and there are so many instances of it as to make it appear to be the center of gravity of Hindu thought, the ethnic treasure common to all schools of philosophy and all religious sects of that mysterious people.

I open the *Mahâbhârata*, the greatest epic of India, and I read:

> Without renunciation happiness cannot be achieved, without renunciation we aspire in vain to divinity, without renunciation we cannot be safe in our sleep; therefore renounce everything, and thou shalt become blessed.
>
> There is no eye that sees so much as science, there is no asceticism that equals truthfulness, there is no grief that equals attachment to the things of this world, there is no delight like renunciation.
>
> All the joys that love can give in this world, all the ineffable delight that heaven offers to the virtuous, are not worth even the six-

> teenth part of the happiness produced by the annihilation of desire.

I am purposely quoting from the *Mahâbhârata* because, while it is a book of edification, there is no doubt about its lay character. And other books that possess this lay character, even more like the collection of sayings of the famous Bhartrhari, poet and king, extol renunciation, liberation from the shackles of this existence, with words so fervid and sincere that they exclude every suspicion of hypocrisy. I hope Your Highness will forgive me if I quote other examples and I make bold to ask you to be patient and follow me to the end, because I nourish the hope that we shall end by agreeing. This is another group of maxims and phrases denying active vitality:

> What man is shackled?
> He who is attached to the pleasures of the senses.
> What is liberation?
> Detachment from the pleasures of the senses.
> What is the horrible hell?
> Our bodies.
> What is heaven?
> Cessation from every desire.
>
> There is no fortune superior to renunciation, there is no friend equal to unwavering faith, there is no enemy worse than life.
>
> He who does not permit his heart to be pierced by the darts of the glances of beautiful women or to be made to burn by repentance which follows anger, or to be carried away with the bonds of desire by the multiple attractions of the senses, that man is a hero and he conquers the *trimundi*.
>
> Of what must we think day and night? Of the emptiness of existence, and not of a beautiful woman. Who must become our beloved? Pity, gentleness, benevolence toward our fellow-creatures.
>
> All books were written by the sages with the sole end of teaching the way to quell the passions of the heart; therefore he who can extinguish every passion in his heart may say that he has read all books.
>
> He who is made a slave by hope becomes everybody's slave, but the whole world is the slave of him who has succeeded in enslaving hope.

In the face of this constant point of view in Hindu thought, how does Tagore behave? There can be only one answer: As a daring heretic, ready to preach the propaganda of a new faith. He has a gospel to preach to his fellow countrymen, a gospel made up of principles opposed to tradition, glorifying life and action. I do not think that there can be the least doubt on this essential point after reading those excerpts from Tagore's books which I quoted and commented upon in my preface. But since every new proof of truth is a joy, I shall repeat the words of that Bengali physician about Tagore, referred to by the Irish poet William Butler Yeats in his introduction to *Gitanjali*: "He is the first among our saints who has not refused to live, but has spoken out of life itself, and that is why we give him our love."

But how can we explain Tagore's attitude, which is almost one of protest against hereditary dogmas? My respectful dissent from Your Highness' opinion arises here. Your Highness has justly and acutely observed that, side by side with renunciation, the Hindus have heard the most brazen Epicureanism preached to them, and that the imperfect fusion of the Aryan race with the aboriginal people of India suffices to explain the great variety and heterogeneity of the spiritual product of India. The new word of the modern Bengali poet derives its form and character from the Epicurean current, parallel to and antagonistic to the mystical current, founded upon renunciation. According to Your Highness, Tagore is also an indigenous plant, a flower of the Orient, one of the many contradictions of India, ethnically and irreconcilably diversified. I, on the other hand, affirm that it is the Anglo-Saxon poets, faithful interpreters of Western thought, chanting hymns to the beauty and sanctity of life, who speak through Tagore's mouth.

Your Highness points out to me an incontestable fact. It is quite true that, side by side with the voices of renunciation, other voices have been heard in India since the most remote times, advising and exalting the most immoderate and excessive sensual enjoyment that can be imagined. From the ancient sect of the Cârvâka, suggesting a joyful life and running into debt if necessary to one's pleasure, to the obscene cult of the left hand with which homage is rendered to the goddess Kâlî, we have here the most ample demonstration of the sensualism and eroticism of the Hindus, carried to extremes of amorous frenzy. But the question is here: is there real antagonism and incompatibility between excessive sensualism and excessive mysticism, or is not the latter the ultimate fatal consequence of the former? Is not intemperance perhaps the cause of renunciation? It has been said that when we find sensualism emphatically and constantly condemned in a literature, we have a sure indication of the dominance of sensualism in the people which produced that literature. There is no need to preach virtue to one who practices it. The tropical climate and the ethnic factors render the Hindu incapable of keeping within a just measure. To resist the torrent of passions, steel nerves are needed, Western nerves, our nerves. Life is not unlike a strong wine which may increase the strength of the body and the mind, if drunk in small doses, but when swallowed in large quantities, it leaves one unnerved and besotted. The Hindus have drunk with intemperance the liquor of life, and it is not astonishing that they cursed that life. The most perfect type of a man who, satiated with the pleasures of life, ends by forswearing it, and finding the sum total of all wisdom and virtue in renunciation, is Bhartrhari, of whom I spoke above. He wrote one hundred maxims about love, one hundred about the practical wisdom of life, and one hundred about renunciation. Just as he went to extremes in his youth in extolling and glorifying pleasure, so he became exalted in his old age in his search for mystic experience. In one of his maxims he says: "A man of distinction is like the jessamine flower: either he is found at the head of all others, or he stays solitary in the forest." No half-measures are known; either we must live intensely, touch the bottom of every form of voluptuousness and surpass every one in the joy of love, of power and of glory, or we must withdraw into the solitude of a forest and lose ourselves in contemplation. This is India, this is the character of that human individual which resulted from the ancient fusion of the two races, the Aryan and the Negroid. Often mysticism does not come after excessive sensualism, but it exists confused with the latter. Auguste Barth makes a just observation about the cult of the goddess Kâlî, which prescribes excess in eating and drinking and permits a filthy ritual of the most violent and shameless eroticism. He says:

> *Il n'y a pas que du libertinage dans ces aberrations. Les livres qui prescrivent ces pratiques sont, non moins que d'autres, remplis de hautes visées spéculatives et morales, voire même de théories ascétiques, autant qu'ailleurs on y professe l'horreur du péché et une réligiosité pleine de scrupules; c'est pieusement, la pensée absorbée dans la prière, que le fidèle doit participer à ces mystères, et ce serait les profaner que d'y chercher la satisfaction des sens.*

It does not seem to me that the appeal made by Tagore to his fellow countrymen can repeat the origin and the inspiration of the sensual and mystic frenzy which inevitably leads to the denial of life and the search for a spiritual opiate, whether it is called identification with Brahma, Nirvana, fusion with Shiva, Kâlî, etc. Life is not a snare for Tagore, a trap which must be avoided or from which man must at all cost free himself with *Ascesi* or with meditation, with divine grace or the intoxication of the senses. Life possesses for Tagore a high value; when ennobled by action it is worthy of great confidence and yields the greatest rewards. It is, in substance, the Hellenic-Latin *credo* inherited by the European nations and particularly proclaimed by the English poets Wordsworth, Shelley and Browning. In the poems of Tagore we find the culmination of the work of propaganda for culture initiated by Macaulay in India with the foundation of schools on the British model among the natives, continued with admirable wisdom and tenacity by the viceroys of the last half century. By that I do not mean that the European thought does not assume in Tagore's writings local color. The art, I might say the cunning, of the Bengali poet consists precisely in presenting a Western doctrine clothed in Hindu dress, and in his eagerness to reconcile the indigenous traditions with the new principles which came to India from far-away England. However, he sometimes betrays himself and shows clearly the English source from which he borrows so many of his thoughts. I have mentioned in my introduction to *The Crescent Moon* certain parts of

Tagore's work which recall to the mind lines of Shelley; and I wish to add here just one parallelism of thoughts and images which cannot be called in any possible way casual. Tagore writes in *Gitanjali*, 60:

"On the seashore of endless worlds children meet. The infinite sky is motionless overhead and the restless water is boisterous. On the seashore of endless worlds the children meet with shouts and dances."

The inspiration of the entire poem is taken from these well-known lines of Wordsworth:

> Hence in a season of calm weather
> Though inland far we be,
> Our souls have sight of that immortal sea
> Which brought us hither,
> Can in a moment travel thither,
> And see the children sport upon the shore,
> And hear the mighty waters rolling evermore.[2]

I hope Your Highness will forgive me if I lengthened my analysis, thereby gaining in conversation with Your Highness on these high and difficult themes, an intense spiritual joy. We are, all of us, a little selfish, especially in these days, so cruel and still so full of angelic pity and kindness. The world goes on in its riddle of inexplicable moral contradictions.

I remain,

Your Highness' obedient servant,

LUIGI LUZZATTI.

ROME, February 16, 1916.

GOD IN HISTORICAL RESEARCH

THE review *Alle Fonti delle Religioni*, with a lofty purpose indicated by its title, has just begun its publication, and is edited by a young man[1] who unites with a very high degree of culture great modesty, which is a necessary element in research of a sacred character. The collaboration in such a review of men of high character and great fame in such studies—notable among others, Professors Formichi and Pavolini—is assured for this publication, which presents itself, therefore, under the happiest auspices.

In the research in the origins, the sources and the evolution of holiness, especially in Asia, Italy does not yet occupy the place which she ought to have.

The mission of this review is to present to the public the result of the work of Italian scholars in this field; a work still unrecognized but deserving to be known.

Asia will necessarily be the principal seat of these studies, necessarily, because all the great religions born on that continent, Brahmanism, Buddhism, Parseeism, the two principal creeds of China, Judaism, Christianity and Mohammedanism survived the destroying effects of time and still flourish in multiple ramifications, while the great religions of Europe, born in Rome, Greece and in the northern countries of our continent, died out, especially on account of the diversity of their moral content, and because they were principally religions of a state rather than of God, and so were destined to perish with the nations which conferred on them their own greatness. In Asia, during times of political victory and of defeat as well, the gods have preserved their immortality. But Christianity alone has spread all over the world through its intrinsic moral beauty, recognized even by those who do not accept the occult virtues of sacred perpetuity. It has penetrated even the vast Asiatic regions where Brahma, Confucius, Buddha and Mohammed were born, while, except the God of Israel, transformed by Christ, the others are ignored by Europe and by the continents which Europe discovered and educated.

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[2] *Intimations of Immortality*, IX, 165-171.

[1] Giuseppe Tucci. Rome, Signorelli, publisher.

The religions of Asia, exclusive of Judaism, Christianity and Mohammedanism, were thoroughly studied for the first time by the English, especially in 1824, in H. H. Wilson's notable work. These researches culminated in the great collection of the *Sacred Books of the East*, published under the auspices of Oxford University with the collaboration of eminent Hindu scholars under the general editorship of F. Max Müller.

Thus began the accurate and essentially technical study, connecting philology with religious philosophy, both united in a common search for a divine source, and perfecting one another in the course of their work. Later, priests and believers of creeds that seemed solitary associated themselves with those general researches, and science came to unite what God had divided. But we must acknowledge that the true revelations about those creeds were made by science, and that the believers came to know the poems of Brahmanism and Buddhism—which seemed destined to die—through the work of men of science. Thus were those religions refreshed, as it were, by the better knowledge of documents unknown to the adherents themselves.

We can well say that it was Europe which revealed to Asia the best parts of its religions, which were in danger of being lost. And Europe continues to develop this great project to the admiration of the one side, and the envy or indifference on the other, of the Asiatic believers.

From all this a lofty controversy arises on the relative merit of those creeds and Christianity, and we can witness an effort to demonstrate—as an instance—that the morals of Buddha are older than those of the Gospel, fundamentally identical and in some cases superior.

Here comes a formidable question. If all these ideas are discovered now in documents buried for centuries, and they did not have any effect upon the conscience of the believers to whom they appealed, while the Gospels have exercised their redeeming influence in all epochs of Christianity, does not all that constitute the great difference existing between the metaphysics of chosen creeds and the sublime perpetuity of the Christian religion? The history of the Gospels may be different from their sacred legends, but the Gospels as they are constitute the most admirable source of morals and virtue. What Christ said may have been said before by Buddha, but Christ was the greater painter, sculptor and poet of these unsurpassable moral ideas. He has expressed them as if they were the greatest things of art with a simplicity that goes to the heart both of the learned and the ignorant, of the good and the wicked, working conversions renewed through the centuries, conforming to interpretations which precede science and developing admirably through the new conditions of changed civilization.

All that synthesis which is here merely pointed out requires new analysis, new demonstrations and new developments. If this Review—as we may confidently expect from the high degree of culture and talent of its founders—will keep its promises, Italy will be getting ready to write new hymns in this divine harmony that the best men of the civilized world are raising with the noble purpose of shedding as much light as possible on the mystery of sanctity, on that mystery which surrounds religions, not in order to destroy them, but to draw them near the mind as well as near the heart of mortals.

March 31, 1921.

A Spiritual Debate (Buddha vs. Christ) [1]

I

Buddha [2]

Buddhism—according to Professor Formichi—is not a phenomenon peculiar to India, because it appeals to the whole of humanity. "The fundamental ethical ideas of the Sermon on the Mount of Christ are all found in the Benares Sermon of Buddha, only that Christ proceeds by way of analysis and avails himself of poetical eloquence, while Buddha proceeds by synthesis and makes use of the concise and abstruse language of the philosophical ideas of his time. To give an instance, how many variations does Christ make upon the theme that in morals the intention is everything and the external action nothing! It is not enough to abstain from killing; we must not say *Raca* to our brother; we must not nourish anger against him, and we must be reconciled with him. It is not enough not to commit adultery physically; we must not even look on another man's wife and lust after her. It is no merit to give alms openly; we must perform our charitable actions in such a manner that the left hand must not know what the right hand does. It is hypocrisy to pray to God in the temples before all men; we must enter our own room, lock the door and secretly address our prayers to the Celestial Father. It is the action of a Pharisee to fast and show the effects of the fast upon one's countenance; one must, when fasting, anoint one's head, and wash one's face, and appear happy and joyful. How many examples, how much eloquence for the demonstration of a single principle! This is called, and it is, analysis. In the Benares Sermon we find the same principle expressed in compact form: "Right thought, right words, right action." This is called, and it is, synthesis. The analysis generally pleases more than the synthesis, just as Gounod's *Ave Maria* moves the heart more than Bach's theme upon which the sweet melody was embroidered. But there is more music in Bach than in Gounod. To comment upon the Sermon on the Mount is to spoil it, to comment upon the Benares Sermon is to construct. Christ is great for what he says, Buddha is great because he makes us think; Christ makes use of eloquent language, and he is the pupil of the ancient prophets of Israel; Buddha makes use of the *sûtra*, the concise scientific formula of the Brahmins, whose pupil and heir he is.

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[1] On the eighth and the thirteenth of February, 1913, a debate on Buddhism vs. Christianity took place in Rome at the Philosophical Association, between Professor Formichi and myself. The two addresses are here epitomized. I have placed this chapter last because it summarizes the ideas developed in the preceding chapters.

[2] Summary of Professor Formichi's address.

"Of what use is the braided hair, thou fool, or the mantle of goatskin? Within thee there is the crowded forest, and thou cleanest the outside." This and numerous other passages of the Buddhist canon give evidence that, like Christ, Buddha insists upon the necessity that the intimate thought, the conscience, the heart, be pure.

Buddha's commandments are:

1. That shalt not kill any living being.
2. Thou shalt not steal.
3. Thou shalt not commit adultery.
4. Thou shalt not bear false testimony.
5. Thou shalt not drink alcoholic beverages.

This is a code of morals good for all times, in all places and for all men, and it suffices, alone and by itself, to prove that Buddha has not only touched the Hindu note but also and especially the human note. For this reason he is so suggestive of thought, for this reason his doctrine becomes emancipated from the historical sphere in which it was born, and every day tends more to rid itself of local and national color and to become a universal religion.

The Buddha gave evidence of great wisdom in choosing the negative form rather than the affirmative for the essential ethical commandments. It is better to limit one's self to preaching to the masses "Kill not," rather than "Love thy neighbor as thyself." Counsels of perfection often run the risk of causing men to lose their spiritual balance, or of being interpreted too literally, so that when they are shorn of their transcendental significance they become meaningless formulas, or (and this is the more frequent case) words heard but put to little use, or no use at all. On the other hand, the fact that it is not enough to abstain from killing, but that man must sacrifice himself for others, and even love his enemy, is repeated so many times in Buddhist literature that the difficulty resides only in the selection of the passages. Buddha himself exhorts Prince Sîha to give alms to the Jains, sworn enemies of the Buddhists, and Kunâla says that she cherishes only feelings of benevolence for her stepmother, who gave the order that her beautiful eyes be destroyed. Even the saintly exaggerations of the perfect ethical ideal are not lacking in Buddhism. We read in the *Samyutta Nikâya*: "When the wicked abuse thee, thou shalt say, They are good, very good, because they do not strike me. If they strike thee, thou shalt say, They are good, very good, because they do not stone me to death. And if they kill thee with piercing steel, thou shalt say, There are disciples of the Most High to whom life brings anguish, sorrow and disgust, and who seek a violent death; I have found such a death without seeking it."

Christianity and Buddhism are therefore equivalent in their laws about morals, and often the Buddhists go further than the Christians in the execution, for instance in their respect for the life of animals.

Only those who fall into the error of recognizing the essence of the high doctrine in the instantaneousness of universal renunciation, not thinking that the chosen ones are capable of renouncing earthly boons and of striving exclusively for divinity, may accuse Buddhism of antisocial tendencies.

The busy world, science, art, love, family, the state, the army, all this is respected by Buddha. Only, the perfect man is for Buddha that one who, perceiving the temporary character and the frailty of all things of this world, feels blessed and happy when he definitely renounces all earthly benefits. Life is sorrow, and this sorrow has its root in the hunger for life or *trishnâ*. Deussen observes that what Buddha calls *trishnâ* and considers the cause of sorrow is what Christ calls ἐπιθυμία or wicked desire, and considers a cause of sin. Both are right from their point of view. . . . More than any propaganda manufactured by one side or the other, the knowledge that the two great world religions agree in their fundamental principles, should avail.

The Buddhist (I am here quoting Oldenberg) aspires to Nirvana with the same joy of triumph with which the Christian looks to his goal, which is eternal life. But the two gems of Buddhism are undoubtedly religious tolerance and the iron moral discipline intended to extirpate egotism from the heart of man. I shall not venture to speak on the religious tolerance of Buddhism, after what Luigi Luzzatti wrote in his volume, *Freedom of Conscience and of Science*. As for the eradication of egotism, I shall say that three great religions alike give it as a supreme end, although in different ways: Brahmanism with the reunion and fusion of the individual soul with the universal soul; Buddhism with the rational analysis of our ego and of the reality which surrounds us. "Everything is transitory" is the supreme formula of Buddhism. "Nothing belongs to me" is the corollary of that premise, so that the conclusion can be only one: "Nothing remains to me except action—that action which, refining itself and reaching perfection, opens the door of Nirvana." We must have no affection therefore for this flesh and these bones which we must abandon, no love for these sensations, these thoughts, this name that will disappear; but give great attention to our actions, the vehicle which must lead us to eternity. We have here a profound doctrine and a sublime ethic, than which the human mind will never be able to conceive or discover a greater. Where is egotism, if the only thing man recognizes as real in himself is action?

Whoever may find the way to snatch away temporarily from death the sick believed incurable, or whoever will promote our material welfare, will in vain try to emulate Buddha and Christ, who sought a blessing which we cannot see or touch with our hands. Men are almost ungrateful to those who by their discoveries caused the furtherance of the comforts and pleasures of life. We take advantage of great inventions, we exploit the inventors, and then, conscious of our misery, and feverishly seeking other means that may give a shadow of consistency to this dream which is life, we almost forget the poor inventors. On the other hand, the more eager we are to proclaim that life is beautiful and a blessing, the more Christ and Buddha who preached the futility and vanity of life are in everybody's mouth. When men deified Buddha and Christ, physicians of the soul, and almost forgot Jenner and Pasteur, physicians of the body, they proclaimed unconsciously that this earth, this life, are nothing but fleeting shadows and pain, and that truth and goodness are hidden in something which is neither this earth nor this life. However we may try to demonstrate that the saints are insane persons—and these lunatics when alive irritated the populace and were mocked, beaten and tormented in every way—they were surrounded with glory after death, and were worshiped by that same populace. Are then the people insane who persecute them first and deify them afterwards, or are they insane who in life and in death say the same things? In my profound, sincere, infinite admiration for Buddha and Christ and the saints in general, I have the great fortune to find myself in agreement with Luigi Luzzatti, who honors me with his presence here. This renders our little controversy cordial and amicable. I have tried to grant to Christ more than is possible for me; but I do not know whether my friend Luzzatti will declare himself satisfied. I fear not, and I desire to hear his words, always lofty and serene, in regard to the moral ideas of Buddhism and Christianity.

II

CHRIST [3]

CHRIST, my distinguished friend, needs neither your condescension nor my defense! Not, therefore, to defend Christ, but only to make manifest my profound conviction, I shall say here that the progress of morals does not consist in the novelty of his ideas, which perhaps every righteous man finds in his heart, but in the manner in which he announces himself and the effect which He secures. What was required was to give these ideas such clearness, evidence, and attractiveness as should fill with admirable ardor the most hardened conscience. It is of no avail, therefore, to say that Buddha's ideas of morals anticipated Christ's, even the principal one of loving those who hate us. It is true, the comparison of the two gospels finds them astonishingly similar: the faith that moves mountains was spoken of by Buddha long before Matthew alluded to it. Thus the mysterious news that vengeance had consumed itself, and that the enemy must not be hated but loved, blessed and helped with prayers, was heard in the forests of the Ganges before it was expressed in the Gospels. But never did morals have a painter and a sculptor as great and as effective as Christ. There is no possible comparison between the Benares Sermon and the Sermon on the Mount; the former is a glacier illuminated by the sun, the latter is the expression of a divine heart. In the Gospel virtue is depicted with the admirable art of simplicity, and after the Gospels the Old Testament possesses this great privilege. In those two books the holy and good words are changed into eternal formulas, renewing in successive generations the admirable effect experienced by those who had the incomparable fortune to hear them. Here is the proof:

"All must dominate the anger of others by the absence of anger, evil with good, lies with truth." "Hatred does not cease with hatred, hatred ceases only with love. This is the ancient rule." Thus speaks Buddha.

But Christ expressed himself in this wise:

> Ye have heard that it hath been said, Thou shalt love thy neighbor and hate thine enemy.
>
> But I say unto you, Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you and persecute you;
>
> That ye may be the children of our Father which is in heaven; for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust.
>
> For if ye love them which love you, what reward have ye? do not even the publicans the same?
>
> And if ye salute your brethren only, what do ye more than others? do not even the publicans so?

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[3] Summary of Luigi Luzzatti's address.

> Be ye therefore perfect, even as your Father which is in heaven is perfect.

There is no doubt that even the most fervid Buddhists will this time prefer the words of the Gospel. Buddhism is, in the last analysis, a stoic doctrine, and the same accusations may be brought against it that Macaulay brought against the Stoics, in his essay on Lord Bacon.

> We have sometimes thought, [he says,] that an amusing story might be written in which a disciple of Epictetus and a disciple of Bacon should be introduced as fellow travelers. They come to a village where the smallpox has just begun to rage, and find houses shut up, intercourse suspended, the sick abandoned, mothers weeping in terror over their children. The Stoic assures the dismayed population that there is nothing bad in the smallpox, and that to a wise man disease, deformity, death, the loss of friends are not evils. The Baconian takes out a lancet and begins to vaccinate. They find a body of miners in great dismay. An explosion of noisome vapors has just killed many of those who were at work; and the survivors are afraid to venture into the cavern. The Stoic assures them that such an accident is nothing but a mere ἀποπροηγμένα· The Baconian, who has no such fine word at his command, contents himself with devising a safety lamp. They find a ship-wrecked merchant wringing his hands on the shore. His vessel with an inestimable cargo has just gone down, and he is reduced in a moment from opulence to beggary. The Stoic exhorts him not to seek happiness in things which lie outside of himself, and repeats the whole chapter of Epictetus, πρὸς τοῦς τὴν ἀπορίαν δεδοικότας· The Baconian constructs a diving bell, goes down in it, and returns, bringing up most precious things from the wreck. It would be easy to multiply illustrations of the difference between the philosophy of thorns and the philosophy of fruit, the philosophy of words and the philosophy of works.

The Stoics may be likened to the Asiatic teachers of Buddhism, who are admirable but sterile in their effects on the progress of humanity. And this progress of humanity must not be understood in the rigid manner of some philosophers who disassociate it from sound religious idealism. Civilization must derive its moral renewals from the latter and thus will the incessant ascent be sanctified. Our civilization is the dialectic process of Hellenism and Christianity, which is the work of centuries fused in a single model in its hundred elaborations. And is it not an intrinsic virtue, this of Christiainty, to have joined itself with Hellenism? And if, as some one claims, it is not the quality of religion, but that of the race which matures civilization, did not Christianity—incessantly maturing itself in flourishing branches—know how to adapt itself to the progressive character of the peoples of Europe? Who could deny the influence of

Christianity in the admirable examples of our art, which is so great a part of civilization, and grant it only to Hellenism?

Buddhism also came in contact with the civilization of Greece at the time of Alexander, but it did not know how to assimilate it, while the Christians of the Renaissance, educated in the school of Galileo, already knew how to temper the Gospels with the science of the new natural doctrines.

As for religious freedom, we still maintain that the Buddhist demonstration represents the greatest constitutional movement of history, because it draws from its very religious faith the intimate reason for respecting the faith of others. But we must not forget the magnificent defense of religious freedom made by Christianity in the first three centuries, when it came into contact with paganism in the sublime epoch of persecutions. It is quite natural that freedom should be defended by those who are persecuted, but it is when they achieve victory and triumph that they give the true measure of their sincere love of freedom, continuing to feel it even after victory, as Lactantius did, together with many others.

The ethical diffusive virtue of Christ's preaching is found in his immediate disciples and especially in St. Paul, who demonstrated that the universal conscience and the power deriving from it are as nothing without the purifying flame of charity. Those who speak of the Buddhist charity toward animals must be reminded of St. Francis of Assisi conversing with wolves and turtledoves, and surely St. Francis was not then plagiarizing Buddhism! The pious saint tamed and domesticated wild animals without consenting that they should kill men!

In my conviction of the ethical superiority of Christianity over Buddhism I have the good fortune to find myself in agreement with Professor Oldenberg, the eminent author of the *Life of Buddha.* He has distinctly recognized—without clever circumlocution—that the morals of the Gospels are superior to those of Buddha. Buddha invites his followers to free themselves from pain by silent meditation in the wilderness, until the earthly existence is extinguished with the extinction of desire. How superior to this doctrine of renunciation is the other, on which rests our civilization, the doctrine which fights pain with science and charity, continually narrows its limits and draws from the source of necessities and anxieties the perennial comforts of progressive social coexistence. We must not flee from the world, but struggle in the world for the exalted victories of goodness and knowledge.

Naturally we will always have with us sorrow and poverty, and the help of a superhuman ideal will always be appealed to in order to alleviate them. But in Buddhism the family itself, which is an organic cell of human communities, is weakened. When the Asiatic teacher abandons his home, his wife, his child, his father, what answer does he give to the messengers sent after him to call him back? His answer is that since death would have separated them from him sooner or later it was just as well that the parting should happen at once.

We may make allowances for Buddha, who had the mission to save all mankind, but the families that were created under the religion of Buddha are sanctioned only by civil law and merely tolerated by religion. According to the religious teachings of Buddhism the husband can desert his wife and children to seek in the wilderness the road to redemption from sorrow!

Woman, who represents half of humankind, does not occupy in Buddhism that place to which she is entitled, nor does she rise to the sublime height assigned to her by the Gospels. Buddha hesitates in authorizing women to enter into his orders, and only does it at the instance of his aunt Gautamî, saying afterward to his most beloved disciple:

> If, O Ananda, access to the law and the order were not conceded to women, the life of sanctity, O Ananda, would have lasted for a long time and the doctrine would have kept its purity for a thousand years; now that access has been granted to women, O Ananda, the life of sanctity will last and the doctrine will be kept pure only for five hundred years.

Elsewhere Ananda questions the Master:

> "How, O Blessed One, must we behave toward women?" "You must avoid looking at them, O Ananda." "And if, in spite of that, we see them, O Blessed One, what must we do?" "You must not speak to them, O Ananda." "And if we spoke to each other, O Blessed One?" "Then, O Ananda, you must watch over yourselves."

Between the suspicion of the Master, who considers woman as a source of evil, and the cult of Mary in Christianity, we find the measure of the two doctrines regarding woman. Woman is in a condition of sin in Buddhism if, according to Buddha's strong expression, she does not exceed femininity. In the two Testaments woman is the joy of the family, the basis of social life, if she preserves intact her purity.

The Gospel consecrates with equality in purity the union of man with woman for the inviolability of the family, declaring it to be a sin of adultery even "to look on a woman to lust after her." And both husband and wife will be found among the blessed in heaven.

Woman was even forbidden in India to use the literary language; she was allowed only to speak the vernacular, and she came after the pariah.

Going back to the central point of Buddha's great religion, we observe before all that the Nirvana, that is to say the extinction of individuality or the divesting of all earthly elements, does not constitute a return to God. Buddhism is a religion without divinity, and the Karma is what remains of human individuality, a sort of will in action, which continues its eternal voyage of reincarnation in the world, in superior or inferior beings, according to merits or faults. However great may be the conception of the Nirvana and the perpetuity of the Karma the reincarnations are neither rewards nor punishments, because those who go through them have neither consciousness nor recollection of their preceding state.

If Buddhism has been reconstructed, sometimes even created, as an admirable philosophical and religious conception, by the researches of our philosophers and philologists initiated in 1820, the reality of the Buddhist church is quite different from this conception, in its moral and social effects, in Ceylon, in Burmah, in Tibet, in China, wherever that religion is professed in Asia.

In Tibet the monks make up almost one-third of the population, and, as in primitive Buddhism, there are intermediate divine beings. In a word, there is no God, but there are idolatry and magic; and human activity becomes extinct in the cult of pain.

In one of his incarnations the Buddha, smitten by infinite love for all created beings, gives his body to satisfy the hunger of a tiger and a snake which were starving. To this we prefer the action of the British administration which, noticing that every year five thousand persons die devoured by tigers and twenty thousand bitten by poisonous snakes, has established prizes for the destruction of both tigers and snakes.

Cult of the religious and philosophical ideal, cult of science and of the great virtues for action and victory over evil, to diminish pain and sorrow; this is the religion of humanity that surpasses Buddhism and renders vain every attempt to revive it.

PART III

ST. FRANCIS OF ASSISI

THE SPIRITUAL RETURN OF ST. FRANCIS OF ASSISI [1]

ST. FRANCIS OF ASSISI is back upon earth to resume his holy mission of peace. Perhaps after the Middle Ages, and after Dante—who knew everything and took the measure of human and of divine greatness—he was in no epoch loved, or his influence felt, as in our day. He is again studied with loving understanding, and the innermost recesses of his great soul scrutinized in the patient research of modern scholarship.

How shall we explain the return of the Franciscan ideal, not only in Catholic countries but among Protestants communities as well? His best known commentator, the great initiator of the new research, Paul Sabatier, is a Protestant, inclined to absolute religious independence. How can the triumph of the machine era, of materialism in history, and of colonial imperialism come to be reconciled with the mystic simplicity of the Seraphic One? Surely whoever observes calmly modern scientific and economic progress is dazzled by a splendor never seen before by mortals. Wealth, guided by technical skill which leads to marvelous applications of science, is no longer developed as a tranquil stream but flows like an impetuous torrent. In spite of immensely increased production, universal well-being increases consumption in equal proportion. There is an intense aspiration to material happiness, intense strife and rivalry in the race to conquer fortune. Desire satisfied makes even more eager ever-renewing desire; the anxious search for pleasure of every kind has no limits. It is enough to consider what is happening with the laboring classes; the general rise in wages, fruit of right social adjustments and of economic laws operating in the markets of labor, is always behind the restless aspiration of the working men, their needs constantly growing and giving therefore the greatest impulse to the production of the last few years.

A question of great import arises in connection with the Franciscan theme: Does the mastery of man over nature increase at the same rate as the mastery of man over himself? Does it curb his passions, as it knows how to curb and direct the energies of nature? Briefly, does the progress of morals advance at the same pace as scientific and material progress? Does the active pity that the Seraphic One has more intimately felt—after Christ—for the sufferings of the wretched, correspond to-day to a frank and spontaneous sympathy of the powerful for the unfortunate, of the happy for the derelict, of the wise for the ignorant? Are social laws the effect of humane feelings or the result of fear?

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[1] This is the preface to the *Fioretti* published in 1912 in the series of *Classical Italiani*, edited by F. Martini and L. Luzzatti, Milan, Istituto Editoriale Italiano.

Do love for our neighbors and care for human creatures perchance exonerate us—when translated into laws and ordinances—from that evangelical pity which is as unaware of itself as purity and modesty, and from spontaneous mercies which urge us to suffer for the misfortunes of others, to try to mitigate them, without exacting praise, with deeds hidden from men and therefore pleasing to God?

These are the formidable questions, the anxious doubts which are beginning to be echoed in a world that has more of the Bacchanalian character than of the Pythagoric, and in which the orgy of pleasure drowns with its bustle and its clamor a humble, a continuous, and a silent fulfilling of duty.

If we knew how to answer such questions and how to describe this kind of double conscience, which is in every one of us, by the effect of which the most contrasting actions of good and evil are accomplished with equal sincerity, we could give to the riddle of our modern life its interpretation and find the solution of its sharp contradictions. Let us consider the most advanced countries, the United States as an instance, with all the pride of its wealth, its machines, its marvelous technical innovations, its trusts and amalgamations of capital, the magnificence enjoyed by its multimillionaires. All this marvelous pomp and display is nevertheless powerless to give the happiness of pure wedlock, of simplicity of life, of the secret help offered to the unfortunate, of that mystical weaving of ideal feelings summarized in faith in God. And this is notable also in the fortunate and the powerful; they are possibly equally sincere in cheating their fellow men on the stock exchange and in asking divine forgiveness in their church.

The more science advances the more the contrast increases with the faith of our forefathers in which we are born; and we come to notice our inability to clear up the origin and the end of creation, because, as was well said, "science does nothing but derive our ignorance from a higher source." We remove further on, toward impenetrable mists, the sphere of the unknown, but while the sphere of our knowledge is amplified the unknown persists in presenting itself before us dark and irksome. Intellectual progress sharpens the thorn in the flesh of our powerlessness to penetrate the mystery of life and death. Briefly, are we made better men and women through our increased knowledge and greater power?

And the unhappy conflict just remarked reverberates too among nations; with enthusiasm they send representatives to peace conferences, at which the brotherhood of man is reaffirmed and perpetuated by splendid organizations, but with equal fervor they seek after and prepare every kind of hellish instrument adapted to blast and destroy our fellow beings in horrible struggles which, in the space of a few weeks, cost more in life and property than did the Thirty Years' War or the Seven Years' War.

Love of country hardens us; love of humanity softens; and just there must we insist upon seeing an identical honesty in our acts of kindness and in our acts of cruelty. How much more meaning to-day than in the past have these paradoxical words of Ecclesiastes: "To everything there is a season, and a time to every purpose under the heavens. . . . A time to kill, a time to heal; a time to break down, a time to build up . . . a time to love, and a time to hate; a time of war, and a time of peace!"

How shall we issue forth from these dark contradictions? Who shall teach us to grow in wisdom without defiling the flower of humility; to animate our economic forces without falling into the decay of riches which rot; to refine our feeling of religion by casting off superstition, which too often darkens and destroys faith?

Or is it fated that wisdom and wealth be punished by a larger immorality? Are the civilizations which know all, can do and dare all, like modern Babylons perhaps, nearer to dissolution than those which know less and can do less, but feel it their duty to observe those fine and simple moral precepts sealed in book and tradition?

Doubt begets doubt in the examination of these questions, and even in confessing our inability to answer them we ought to draw the argument of being more humble, of excusing no man, great or small, from the daily labor of good, the only labor capable of righting the instability of our weary society to-day. And every one knows, so much the more, that they are lacking to-day, that the good offices of the saints of virtue are ardently sought to bless the works of the saints of wisdom. Darwin and his followers were indispensable, but why may there not rise up again beside them another Saint Francis of Assisi? That the need is felt and the desire strong is shown in the example of General Booth, founder, amidst mockery, of the Salvation Army, who died recently in London amidst universal regret. He was nothing but a Saint Francis of Assisi on a much smaller scale.

Hence we need not wonder if in this condition of men's minds the miracles of faith recover their sway, and *The Little Flowers of Saint Francis* is read as a solace, a balm against our vulgar and wicked novels. In expectation of the saint, who, if he is zealously invoked, will return amongst us, his words and his works grow young again and fresh and gather to them a gladsome celebrity. From every country in the world (even more than in Italy)—from France, from England,[2] from Denmark, rise his apologists and his commentators, and their voice swells along the multiple roads of life, like a sweet, melodious harp.

The origin of The Little Flowers is becoming a new youth of the spirit. A learned professor of the history of law, one of the glories of Italian learning, Nino Tamassia, in his *Historical Study on St. Francis*[3] has undertaken to examine the sources of the Franciscan legend. There precedes his inquiry a discussion of the heresies and the peculiar state of the church in the pre-Franciscan age, when a Pope said that it had come to the "penultimate hour of its existence." According to Tamassia the Franciscan movement, in origin almost unwittingly heretical because of its popular source, was adroitly pointed toward orthodoxy by the papal curia, which, not by duress alone but by the smoother course of adaptation and of conciliation, gave with foresight that democratic character to the monastic establishment which, together with the church, they had lost. From this premise, by means of a demonstration which he attempts, he deduces that the official historian of the first and second Franciscan legends, Thomas of Celano, must have turned the face of the Seraphic One in the direction of orthodoxy. Celano, thanks to his great erudition, first sketches with the usual hagiographer's motives the moral and religious features. But here is the delicate point, for he is under obligation so to record as not to stray too far from the truth, yet in making of the Poor Little One of Assisi the founder of an order after the model of St. Benedict, he could not neglect the more detached characteristics (love of poverty, simplicity, joy, innocence) of that beloved figure. Thus learned criticism tends to become the instrument of historical reconstruction; and yet if the deeds that Thomas of Celano attributes to the Saint of Assisi are carried beyond the accustomed sources of mediæval sacred lore, the choice of them always gives a certain and unique standard, says Tamassia (who neglects too much the substantial sincerity of popular tradition), for reconstructing the real St. Francis. The cautious pen of Celano was cleverly to transform this quasi-heretic into a meek shade, not discordant with the monastic ideal toward which the order was growing. That community, as a public entity, demanded that concessions in the matter of poverty be made to the requirements of the life of the time.

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[2] The last work of which we know is that of the distinguished Father Cuthbert: *Life of St. Francis of Assisi*, Longmans, 1913. *The Tablet* calls it, and rightly, fascinating. It is perhaps the first notable book done in English on The Seraphic One. [Another little English book which is very favorably received to-day is G. K. Chesterton, *St. Francis of Assisi*, London, Hodder and Stoughton.]

[3] Published at Padua in 1906; also in English translation.

The second legend of Thomas is nothing more than the manual or mirror of monastic life. Here, in Tamassia's judgment, the wealth of the older legends is continuous; as the memory of the true St. Francis grows fainter, little by little the writer becomes freer and more daring: yet the second legend is the source of the book that Paul Sabatier would attribute to Friar Leo. The distinguished professor of Padua goes to work to show that, on the contrary, all the historical sources of the second have direct roots in Celano, and that their value is very limited.

Our author has also unsettled *The Little Flowers;* he has drawn the simple friar declaring, as with the accent of Celano and his imitators, that those simple tales would be spread afar, for, repeating the sayings of St. Gregory of Tours, they represented in their aggregate an air of sweet confidence in poverty and in love, which seemed the reflection of the pure soul of St. Francis.

But studies later than the criticisms of Tamassia bear out always more strongly the thesis of the learned and happy student of this literature, Paul Sabatier: namely, that the recollections of the three companions (Angelo, Leo, and Rufino) set forth by Friar Leo, the wisest of them and the best writer, about the words and deeds of the Poor Little One and of those chosen by him—that these faithful records were not lost but were first gathered into the *Speculum Perfectionis*, and that Thomas of Celano availed himself of them for the second *Life*. And new sheaves were gleaned from those old collections, which, like harvests, were gathered in one monastery and another, and had a varied fortune, too, outside the place of composition, according to worth or circumstance. And *The Little Flowers*, as has been shown, was derived from known written sources; but the first *Life* and the second of Thomas of Celano have no part in those sources; yet they have value as original testimony gathered from oral tradition, especially from the mouth of James of Massa, memorable as a custodian and historian in the true sense of the word, that is as a dependable seer who has preserved some of the most precious of the words and deeds of Francis, which he secured from Francis' companions, as for example the discourse upon perfect joy, the sermon to the birds, and the revelation on Mt. Alvernia.

I am not competent to enter into these hagiographic controversies. Besides the writings of Sabatier and of Tamassia in opposition to him there are the papers of Giuseppe Staderini, *On The Sources of The Little Flowers of St. Francis*, and that of Giunio Garavini, called *The Floretum of Ugolino of Montegiorgio and The Little Flowers of St. Francis.*[4] *The Little Flowers* stands in the relation of faithful translation to the *Actus beati Francisci et sociorum eius;* but a simple comparison of the tables of contents of the two shows more chapters in the *Actus* than in the other. With all that, since the two collections are of a single common origin, critical inquiries respecting *The Little Flowers* apply to the *Actus;* namely, author, age, primitive form, and successive transformations.

Wadding says that Ugolino of Mount St. Mary is the author of a *Floretum* which tells the life and acts of Francis until the pontificate of Alexander IV (who died in 1261), remarking that he had the manuscript of this work by him. In the *Actus* which we have this Ugolino is named as author, and Wadding in his *Annales* cites from Ugolino the information which is given in the *Actus;* there is no doubt, then, that the *Floretum* is the primitive text of the *Actus*. These statements of Wadding are not without contradictors; certain it is that from one of these reworked digests of the *Floretum* the Italian translation was derived, which has numerous adjuncts, coming down at least as late as 1322, thus using origins later than 1261, but it keeps sufficiently the order and the number of the chapters of the *Floretum;* it keeps likewise the old title, which was lost afterwards, especially when the basic purpose of Ugolino's book had been forgotten.

From that fact Sabatier distinguished two parts in *The Little Flowers.*

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[4] The first in the *Bollettino della Società Umbra di Storia Patria*, a. II (1896), Vol. II; the second in the *Atti e Memorie della R. Deputazione di Storia Patria per le Province della Marche*, 1906.

Between the first and the second there is a notable difference: in the first there is more naturalness of movement and of genuine virtue in the humble guise of humanity, although there appear to believers in the facts recounted the breath of the living God, and at times the omnipotent impress; in the second rapture and vision dominate. They are the different characters of two Franciscan ages: the golden age, faithful to the genius of the Poor Little One, inspired in action, wise, and fruitful; and the silver age, in which prevails mystical contemplation, flowering in vision and in word, but less concrete in works.

As to the sources and method of composition of the *Floretum*, the author (Ugolino) sees the things he tells, or has them from eye-witnesses in the latter part; in the earlier he takes a little from written tradition, much from oral. For that he cites several sources, but the most important is James of Massa, from whom he draws information going back to the companions of St. Francis. If, then, those are taken which derive directly from written sources, they proceeded from the familiars of St. Francis, especially Friars Masseo and Leo, then were collected by other faithful ones like James of Massa and spread year after year, and accordingly were first oral then written (in the vulgar speech) and then repeated in convent and cloister, in market-place and castle, with a faithfulness which made them resemble *chansons de geste.* But they were songs of sanctity, not of war! So was born *The Little Flowers*, whose writer, a friar of Marca, secured from the people the scattered traditions and to the people gave them back—"to the people to whom Francis had spoken and whom he loved," and who therefore recognized those tales, loved them, and made them theirs. But upon resort to the beginnings of that oral tradition one finds them concordant with those of the written, and in them appears strikingly the living image, tutelary genius of the sources of a stream, so to speak, of Friar Leo, "lamb of God."

At too great length for a brief introduction those controversies have been set forth which always are carried on about the lives, the words, and the works of men of sanctity. When, for example, one undertakes (what has always seemed very difficult to us) to show that in Buddhism are found the moral ideas of Jesus, and the very type of the beginnings of Christianity, there still stands intact the figure of the Redeemer.[5]

Nor is there any use saying that the moral ideas of Buddha anticipate those of Jesus, as well as the basic principle of loving one's enemy. It is true that the meeting grounds of the two Gospels are remarkable; "the faith that moves mountains" was spoken of at Benares before it was in Judæa. So in the forests about the Ganges was heard, before it appeared in the Gospels, the new secret that vengeance consumes itself in its own flame, and that one's enemy ought not to be hated, but rather loved, blessed, aided, and prayed for. But Jesus knew especially well how to teach by methods different from those of exact logic yet calculated to take the human heart prisoner. The evolution of morality, more than in the novelty of the idea that slumbers at the bottom of every man's conscience, is to be found in the manner of its announcement and the effect it obtains. It is a question of giving proof, clarity, a charm, such as will fill even the hardest heart with a great ardor. Precisely in the Gospel is virtue painted with the incomparable art of simplicity; with the Gospel the Old Testament shows this merit, particularly in the Psalms and in the Prophets. . . . And this god-like simplicity appears again in the Seraphic One, eleven hundred years after the Galilean. These holy masters alone know how to find word, parable, and moral tale, which then become reduced to lasting formulæ, to raise up in future peoples a joy like that of those who heard them. Every painter and sculptor has at his disposal color and marble; all the apostles knew the gradations of sanctity; but if many were called few were chosen, and very few shone forth for all time in such wise as to make mortal hearts beat faster. They alone knew how to make those prayers which fill the deep silence between heaven and earth and people them with mystic, musical communications.

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[5] See T. Edmunds, *The Gospels of Buddha and of Christ, Now First Compared with the Originals.* The book, worthy of favorable mention, has been translated into Italian under the editorship of Sandron.

What does it matter to us if the legends of the Saint of Assisi may be traced to the oldest texts of Italy, France, Germany? Those flowers gave off their perfume for an instant, then withered; only the "Little Flowers" had a lasting fragrance.

The judgment of the people does not err in its spontaneous choice, ratified through centuries; it gives immortality only to those who deserve it. And really the return to the pure springs of the Gospel and of *The Little Flowers* of so many talented men, wanderers along the paths of knowledge, has something marvelous in it. To-day it is certain that St. Francis of Assisi is a better interpreter of the heart of Jesus than formal doctrine, although so distant from the time of his teaching.

These holy men appear to embody the moral advances of future times. In every age every saint and exalted thinker joins to the old, without weakening them, new interpretations of those precepts which came like lightning in Palestine. The further the world progresses and the better human fellowship is defined, the more do they mean: they are and always were, across the centuries, precursors of the future, and even in growing old they renew their youth.

The Sermon on the Mount never was and never will be surpassed, because it is unsurpassable; to-day's civilization, with the disquieting shadows of its social deficiencies, makes us listen more attentively than ever to the heavenly sweetness of every one of those statements, though they seemed superfluous or had as yet no application to the modern ills of the soul.

And to return to a thought emphasized above, having drunk the waters of all the philosophies born and adjusted through centuries, and illumined by the discoveries of the occult forces of nature and of the spirit, we, the wise of this twentieth century, feel ever more the wish to cry out: "Blessed are the poor in spirit, for theirs is the Kingdom of Heaven."

And that cry can come from a Darwin or a Poincaré, properly proud of their discoveries but persuaded of their powerlessness to interpret the mysteries of life. The greatest minds are those which, even in the act of creation, remain humble!

So, after the proclamation of constitutional liberty, of political and civil equality, of the inviolability of conscience of the individual, in face of the new tyrannies, obscure and violent, which rise and are established under the name of majorities, one turns to cry with evangelical firmness, "Blessed are ye when men shall revile you, and persecute you. . . ."

But to return to the book which moved us to these remarks, in which nothing small is to be found, although there breathes through it always the simplicity of the child—how many new applications unsuspected in times past *The Little Flowers* yield! Permit us here a few of these expositions.

One of the freshest and most beautiful of the passages in *The Little Flowers* is the meeting of St. Francis with the leper, who in his suffering blasphemed heaven and earth, to the scandal of the companions of the Seraphic One, who undertook to drive out the devils of his mind and his body, But his blasphemies grew more searching and wicked by reason of the futile exorcisms.

The saint, in his infinite love for the suffering, understood that he must free him from the press of his affliction, to relieve him of the evil spirit.

> Then St. Francis forthwith caused water to be heated with many sweet-smelling herbs; thereafter he undressed him, and began to wash him with his own hands, while another friar poured on the water; and by divine miracle, where St. Francis touched him with his holy hands the leprosy departed and the flesh was perfectly sound. And even as the flesh began to heal, so the soul began to heal also; wherefore the leper, seeing that he was beginning to be made whole, began to feel great remorse and repentance for his sins, and to weep very bitterly; so that while his body was cleansed outwardly of the leprosy by washing of water, so the soul was cleansed inwardly of sin by amendment and by tears. And when he was completely cured, both in body and in soul, he humbly confessed his fault and said, weeping aloud: Woe is me, for I am worthy of hell for the injuries and revilings which I have done and spoken against the friars, and for my impatience against God, and the blasphemies which I have uttered. . . .

Here is the best approach to the social redemption of the innumerable lepers of ignorance and of labor, who impose upon the civil structure problems demanding quick solution. Either our civilization will learn how gradually to destroy the proletarian class, which means moral, intellectual, and economic poverty, or the proletariat will destroy our civilization. For that need the most scientific method yet taught is that of the saint in his cure of the leper.

It is vain to talk of virtue to laborers in the shadow of more immediate wants; but without the moral check of faith or of stoical teaching the more desires are satisfied the more insatiable they become. The economic improvement of the proletariat cannot reach its objective without a corresponding spiritual improvement. Karl Marx based the emancipation of the worker on a material ground alone; we, in the footsteps of the Seraphic One, join the economic factor with the heavenly ideal, inspiring virtue to keep a calm mind before adversity; we cleanse the leper, the better to cleanse the soul.

By as much as new laws and institutions come to relieve the unfortunate of illness, of old age, of unemployment, and to assuage their sorrows, will there be room for charity and for holiness, for the loving fellowship of great for humble, fortunate for afflicted, learned for ignorant, and innocent for guilty. And social questions will not be solved unless progress makes practice of the shining examples of *The Little Flowers*.[6]

To consider another lesson: to-day more than ever does piety affirm a respect for all created beings; to-day more than ever man feels his kinship with plant and animal.

Our society no longer mocks the teaching, emanating from India, of proper asylums and hospitals for beasts. The Italians, still so cruel to animals, are the more blameworthy, for from Pythagoras to St. Francis, from Leonardo to Bruno, from Mazzini to Garibaldi, they have had a brilliant file of thinkers, apostles, and martyrs who felt the duty of protecting the lower creatures. Outstanding among them is St. Francis; his name and his words ought to be cut for the seal of the Society for the Prevention of Cruelty to Animals.

A boy caught a number of pigeons, and carrying them to market met St. Francis,

> who ever had singular compassion for gentle creatures, and looking upon those turtle-doves with compassionate eye said to the youth: "Good youth, I pray thee give them to me, that birds so gentle, which in the Scriptures are likened unto chaste and humble and faithful souls, come not into the hands of cruel men who would slay them." Whereupon, inspired of God, he forthwith gave them all to St. Francis; and he, receiving them in his bosom, began to speak to them sweetly: "O my sisters, simple, innocent, chaste turtle-doves, why do you let yourselves be taken? Now I desire to save you from death and make nests for you, so that ye may bring forth fruit and multiply, according to the commandment of our Creator." And

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[6] These same laws cannot work without improvement in character. The frauds practiced in consequence of obligatory insurance, and already a stain upon these statutes, are serious.

> St. Francis went and made nests for them all, and they resorted thereunto and began to lay eggs and to hatch forth their young in the presence of the friars; and so tame were they and so familiar with St. Francis and with the other friars that they might have been domestic fowls which had always been fed by them.

But the miracle of holiness is boundless; the youth who gave up the pigeons was by them saved, for touched by the virtue of the Seraphic One he "became a brother and lived in the Order in great sanctity."

In that dawn of kindliness the birds blessed by the saint sang joyfully over the fields of Umbria! He taught them gratitude toward the Creator: God had given the open air to the birds, who reap not, and

> yet God feedeth you and giveth you rivers and fountains wherefrom to drink: He giveth you mountains and valleys for your refuge, and high trees wherein to build your nests; and in that ye know not how to sew nor spin God clotheth[7] you and your little ones; wherefore does your Creator love you, seeing that He giveth you so many benefits. Guard yourselves therefore, my sisters the birds, from the sin of ingratitude and be ye ever mindful to give praise to God. And as St. Francis spake these words unto them all those birds began to open their beaks, and to stretch out their necks, and to open their wings, and reverently to bow their heads even unto the ground, and to show by their motions and by their songs that the holy father gave them very great delight: and St. Francis rejoiced with them and was glad, and marveled much at so great a multitude of birds, and at the most beautiful diversity of them, and at their attention and fearlessness; for which cause he devoutly praised the Creator in them.

We dedicate this epic of sublime artlessness to those who beat tired beasts until the blood flows, and to those who unfeelingly catch birds for decoys; we beseech the protectors of our lower brothers to spread *The Little Flowers* afar.

It is impossible that these sweet words should not move the hardest hearts. Oh, that the Saint might come again; oh, that he might again console us with his tranquil goodness, which shed an ineffable light!

Whilst systems, philosophic, economic and social, rise and fall, or stagnate, in strife one with another, there continues the operation of a few intuitive moral concepts, to which humanity owes its daily health and its perpetual renewal. There are certain ancient, fundamental notions which shine like the lamps of life (*vitai lampada tradunt*); and the day on which they seem to go out will raise a troop of learned men to rekindle them, while the heart of a saint keeps them inextinguishable.

[7] In the Sermon on the Mount we read: "And why take ye thought for raiment? Consider the lilies of the field, how they grow; they toil not, neither do they spin: and yet I say unto you, that even Solomon in all his glory was not arrayed like one of these. . . . Behold the fowls of the air: for they sow not, neither do they reap, nor gather into barns; yet your heavenly Father feedeth them."

The method of Assisi, applied by St. Francis, will be always the wisest and most healthful among so many clashings of class, of party, and of interest. When, as his band crossed Perugia, he preached peace between peasant and city, softened the powerful toward the lowly, loosed with the bottomless treasures of his sweetness the knots of suffering, so gloomy in the Middle Ages; and in his travels reasoned step by step with the Sultan, so that he performed the miracle whereby Christianity and Mohammedanism, used to destroying each other, met in brotherhood for an instant—what wisdom, judged by its results, was bound up in that ignorant little brother? How he recalls those other ignorant men of Galilee who, guided by Jesus, conquered with their humility the learned pharisaism of Jerusalem, the splendid philosophies of Athens, and the civil greatness of Rome, and prepared for the glories of ages revivified!

And to-day, while some embitter class struggles and dignify them as an historical necessity, while the sons of the same national redemption, born in the same land, divide into camps and alternate in the reprisals of labor and of capital, thus endangering the moral unity of a fatherland weakened by hate, the dominant note of our time among so many appearances of love, may the Saint of Assisi rise again! May his spirit, which is gone, return to console an Italy bereft of his light!

He would make the rich see how they would impose upon themselves with their own riches, the poor how they fall by the very force of their numbers, and all feel the need of forgiveness and the consolation of mutual assistance. He could move hearts hardened by interest, draw from the flint the spark of love, and squeeze from the angry eye a tear, to teach men the eternal truths of tolerance, of charity, and of helpfulness.

How tired, how wasted with the doubts of science, how ready to listen he would find us!

In the Middle Ages those affected by the divine tragedy and those sated with mundane pleasure followed him; to-day those troubled by the ideal unrealized, those exhausted by science, those who cannot be shown that the perpetual conflict of interests may be the final word of our civilization, yet know not how intellectually to show the doctrine opposed to love, would follow him.

While wise men renovate social doctrines, afterwards to destroy them, a saint may reconcile us to those truths which rise from the depths of the heart, and are quick before they come to the clarity of ideas; and in the din of class struggle may give to souls an inner peace, the first step to social peace.

THE DISCOVERY OF A NEW "LITTLE FLOWER" OF ST. FRANCIS EXTOLLING IMPROVIDENCE [1]

FROM France, where he keeps anxious watch over his country's fate, Paul Sabatier, restorer of the cult of St. Francis, who has made the saint known and loved in Protestant countries too, writes to tell me he has found an unpublished *Little Flower* worthy of the favor which came to the other chapters of that sweet little book, which sought out the hearts of the afflicted, sinless and sinful, in the Middle Ages, and redeemed them, as

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[1] April 6, 1915.

> . . . eleven hundred years and more

earlier, had the Savior in Palestine.

The Little Flower,[2] translated from the Latin and here published, is brilliant for its simplicity; reading it I seemed to taste of the spring of religion, to feel a new sweetness flood my heart, to sense the beat of that marvelous goodness worthy of the true servant of God.

Oh, why might not every man be better, more innocent, more merciful, and so enjoy a little of paradise on earth?

But let us not keep longer from the reader the pleasure of this delightful *Little Flower*, upon which, with permission, we shall comment later:

> On a day a short time after the founding of the Order the blessed Francis went into a city to beg, and with him the venerable Father Bernard, the first-born of his company; and they sate them down upon a stone for that they were weary. But the need to take food making itself every minute more live in these poor sons of Christ who were tormented by hunger, to his companion the holy father spake thus: "Let us await each the other here, O Beloved, when we shall have taken alms asked for love of God." With such agreement they parted and went by the roads and the market-places, and knocking upon the doors of the houses and going over the thresholds, trusting, they asked alms and obtained reverent offerings. But Friar Bernard, devoted to God, was consumed by his great fatigation and put nothing into his bag, for that he ate the morsels and the bits of bread, and the scraps which those offering gave to him, no sooner than he had received them, and turning thence to the place of meeting nothing did he save or take back with him. To him unawares in that while came Father Francis bearing the fruit of the alms which he had gathered, and he showed it to his companion, saying to him: "Great, my brother, are the alms which the Divine Providence has given me, and thou therefore show what thou hast received, in order that we may eat it in the name of God."
>
> Friar Bernard then prostrated himself humiliated at the feet of the pious father, seized with fear, and said to him: "Holy father, I confess my sin that I have brought with me nothing of the alms which I gathered, but I have eaten as much as I had in gift, for that I was dying almost of hunger." St. Francis, when he heard him, wept with joy, and embracing Father Bernard exclaimed: "O my sweetest

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[2] At the end I give the letter of Paul Sabatier, with which he sent me the Latin text of the *Little Flower.*

> son, of a truth art thou more blessed than I; thou art a perfect observer of the Gospel, for that thou hast accumulated nothing, nor hast thou put away anything for the morrow, but all thy thought hast thou turned toward the Lord——"

I guess the objection with which I shall be asked to account for my admiration of things Franciscan. This *Little Flower*, for which every charitable and honest soul ought to be grateful to Paul Sabatier, is the triumph of improvidence. Here is the counsel of Jesus given to the crowds:

> Take no thought for your life, what ye shall eat, or what ye shall drink. . . .
>
> . . . Behold the fowls of the air: for they sow not, neither do they reap, nor gather into barns; yet your heavenly Father feedeth them. Are ye not much better than they?
>
> And why take ye thought for raiment? Consider the lilies of the field, how they grow; they toil not, neither do they spin: And yet I say unto you, that even Solomon in all his glory was not arrayed like one of these.

Now economists and sociologists, urging the doctrine of thrift, recommend the easy sacrifice of to-day for the certain advantage of to-morrow, and call upon the strength of the individual's sovereign will, not the mercy of Providence. How reconcile these two teachings? How is one to admire *The Little Flowers* and the happy results of social foresight?

And we, in turn, answer: those critics are shortsighted who believe in the easy victory of such objections.

Face to face with the formidable problems of free will and God's grace, every man ought so to act as if his will were omnipotent, without drawing less upon the virtue of resignation, as if he were impotent; so that, having dammed every smallest rivulet of Providence and provided for the morrow by every honest thrift, since none is safe from unforeseen and irreparable misfortune and from want unlooked-for and unforeseeable, we ought to be ready ever to call upon a faith staunch in the grace of evangelical holiness.

And though we earn bread with the sweat of our brow, though we put aside something for the morrow, though industry advance and a man gain a wage on which he can dress well, still is the evangelist right, that not even a king with his riches can deck himself like the lily of the valley. One needs to take precautions against privation, against tasting of the evils of the day; but where, notwithstanding the greatest care, one falls short of his object, woe to him who despairs, woe to him who has in his hunger eaten the provision of to-day and trusts not for to-morrow in the mercy of the Lord, or rejoices not as the Saint of Assisi bade his first disciple.

Humanity is a great enigma that no science can succeed entirely in interpreting. And there will always be a place for those hopes of immortality which find fulfilment, among the unexpected griefs of this life, only in a faith in heaven.

There is no contradiction in reading this *Little Flower* [3] of St. Francis with unspeakable satisfaction, yet singing with equal sincerity the praises of saving, and promoting it steadfastly.

Man, in the deep secret of his conscience, has an unrealizable need of the one and of the other of these motives, to bear himself with dignity in this unhappy world and to prepare himself through the purifying of constant sorrow for a future life.

BLASPHEMY—SIN AND OFFENSE AGAINST BREEDING [1]

Bestemmiavano Iddio e lor parenti,
L'umana spezie, il luogo, il tempo e il seme
Di lor semenza e di lor nascimenti.

To dare to blaspheme God, source of human good and creator of all peoples, and His Mother after, sweetness omnipotent and merciful, is to go down, down endlessly, as Dante describes the blasphemer, dead or unborn. . . . The sinful word leads to the wicked act, and becomes the prologues to the worst of evils, to murder.

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[3] LA MAISONNETTE
Par St.-Sauveur-de-Montagut
(*Ardèche*)

4 février 1915

Permettez-moi de venir vous faire un cadeau franciscain, qui, j'espère, vous fera plaisir. C'est un fioretto inédit que j'ai découvert dans un manuscrit de Munich, et qui me semble digne, vraiment, de devenir aussi populaire que les autres chapitres du célèbre recueil. Ne trouvez-vous pas?

Heureux de cette occasion de me rappeler à votre bon souvenir, je me redis.

Votre très dévoué et vieil admirateur,

PAUL SABATIER

Ms. 9068—Munich

(f. 358 *verso*). *Quodam tempore circa principium ordinis b.f. cum venerabili patre bernhardo eiusdem ordinis primogenito pro petenda elemosina quamdam civitatem ingressus iuxta lapidem quemdam uterque consedit fatigatus. Instante igitur hora comedendi et fame pauperes christi cruciante dixit pater sanctus ad socium. Iuxta hunc lapidem charissime alterutrum expectemus cum pro divino amore elemosinam collegerimus mendicatam. Sicque divisi ab invicem vicos et plateas circumeunt pulsant hostia domorum terunt limina elemosinam confidenter petunt reverenter oblata suscipiunt. Dum autem vir deo devotus frater bernhardus nimia famis inedia grassaretur nihil collegit. Sed quam cito micas et crustas vel buccelas ab offerentibus accepit totum tam cito comedit. Sicque rediens ad predictum lapidem de elemosina omnino nihil secum detulit. Veniens itaque pater franciscus collectam secum elemosinam portans ostendi socio dicens. Ecce frater mi elemosina quam mihi* [f. 359 *recto*] *divina largitas donavit. Et tu siquid habuisti appone ut in dei nomine pariter manducemus. Tunc frater bernhardus timore perterritus ad pedes pii patris humiliter se prostravit dicens. Sancte pater confiteor peccatum meum. Nihil de elemosina mecum sustuli sed oblatum mox comedi quia valde esurivi. Hoc audiens s. franciscus pre gaudio lacrimis irrigatus amplexens fratrem bernhardum magna voce clamavit. Vere beacior me es o fili dulcisseme. Tu es vere perfectus sacri evangelii observator. Quia nihil congregasti nec aliquid tibi in crastinum reservasti sed cogitatum tuum in domino totum iactasti.*

[1] The Veronese Committee against Blasphemy, in publishing a tract for national use composed by Capretz, asked me to write a preface to it.

To wipe out blasphemy would be to replace brute violence with free discussion, and assure improved customs. Who should silence it would rid the families of the poor of division and unreasonable hate, and of the rich, who are also guilty, of a return to the habits of barbarism, twice as vicious in cultured people.

Blasphemy is the condition of an arrested civilization, in which neither religion nor learning has choked the seed of atavism, attended by the most iniquitous and unforeseen revulsions. But it is said that many a blasphemer is ignorant of the seriousness of the words which are spoken in short-lived anger, and that they are soon sorry. The remark may be true, but if it is the apostolate of the virtuous ought to exercise its widespread benefits against that particular object. When penitence begins those who pour forth unconsidered words are, when they have been made to understand the depravity of those words, already on the sacred road to pardon. If they understand but, the momentary rage passed, forget, there ought to be *reminders*, trained to make clear with the simplicity of St. Francis the import of their words, so much the more so because coarse minds in the stages of drunkenness, which are so frequent, repeat the offensive words with a kind of beast's roaring, so that they become ever more shocking.

But can such monitors be easily found to-day?

Blasphemers do not read what is written against them!

We should need a modest legion of apostles inspired by St. Francis to seek out the thief, the obstinate man, the man of wrath, and to go deep into the recesses of unenlightened minds.

The disciples of the Assisian met with a leper who blasphemed God and every holy thing, and undertook to reform him with prayer.

The saint, standing before him and aware that their prayers had gone for naught, set about cleansing him and washing his sores; little by little as his body grew clean his curses ceased, and when he was whole, became praises of God who had freed him of his sorrows.

How many such physical and moral lepers true apostles would cure!

But where are they? Would civilization have wiped them out? Were they found in war because they were not sought in peace? May their existence in the past be a legend, or does the hope of their return appear reasonable? Since the miracle of such moral regenerations is certain, it is proper to trust in their reappearance.

The undertaking of the Society is a delicate but redeeming one; delicate, because it must penetrate into consciences almost never lighted by remorse or by piety; redeeming, because experience shows that those who are obstinate by nature or by lack of education become, if their conversion is a sincere one, new benefactors, together with the apostles to them, of a virtue drawing efficacy from the very recollection of vice.

May those who have profited by these excellent institutions read *The Little Flowers*; let them not trust too much to sermons, to loud prayers, to useless meetings; let them remember the story of the leper, and think of the many forms of that leprosy which gives rise to the worst blasphemies.

With the means practiced by St. Francis they too will conquer in the difficult trials of the apostolic life.

CASTELLO, April 28, 1923.

THE SINGER OF POVERTY [1]

I AM introducing to the *Accademia dei Lincei* a distinguished book by Carla Cadorna, the daughter of the general who played so conspicuous and splendid a part in the preparation for and direction of our great war, whose name, now that the passions that every one experienced, in contrast with the calm of history, have been dissipated, every day vindicates more completely.

This gentle lady has a sweet soul attuned to understanding the religious fervors of Jacopone, balanced, as they were, by moments of peaceful return to the flitting shade of humility.

Like St. Francis of Assisi in early youth, Jacopone was a member of those light-hearted companies, given to gaming, to feeding, and to scuffling, which in the middle of the thirteenth century pillaged Todi and the surrounding country.

Among his errors, springing rather from thoughtlessness than from evil intention, two controlled him: love of display and gluttony. But the turbid life of the senses had not succeeded in deadening his intellectual keenness.

The devotion and the suffering of a woman saved him. His wife took part in all his revels to please her husband; one day a theater crashes, and she lies mortally injured. Jacopone flies to her side, and finds upon her a hair-shirt of the stiffest: "Her delicate outer garments, therefore, were a concession to his vanity, the hair-shirt the personification of her own virtue." It is the decisive moment of his life; upon that grieving man shines a light at the end of a rough road, and from that time he journeys with the same impetuosity he had shown in pursuit of worldly pleasure.

For penance he chooses the most grotesque inflictions, so much so that he is called mad; he joins the Third Order of St. Francis, who still suffused all his perfume over the sweet hills of Umbria, and feels his soul unconsciously filled with a love for strict poverty and for the crucifixion of all his being. What changes faith can effect!

A holy madness takes hold of him, that madness which he expresses in one of the Laudi, in which he seeks to show prayer to be greater than human wisdom. And Carla Cadorna thus comments upon it: "What, in fact, is the philosophy of Paris and of Bologna by comparison with this high wisdom which bears the creature toward his Creator, opening to him the high mysteries which unveil only for the 'little men,' as the world calls them?" The ideal, in our opinion, perhaps impossible of achievement, would be the union of the philosophy of Paris and of Bologna with the exaltation of faith.

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[1] Carla Cadorna published a notable study on Jacopone da Todi, the singer of poverty, for the *Accademia dei Lincei*, and Luigi Luzzatti wrote this commentary on it the 17th of February, 1924. (Italian editor's note.)

Soon after the death of the Assisian there appeared in the Order two different tendencies, the Spiritual and the Conventual. The point of disagreement was poverty; poverty of material goods, of honors, etc. St. Francis had wished it to be complete, with that divine conception of his of total reduction; and the Spiritual group were faithful to the heritage of their holy founder, and of Clare, interpreting her in the strictest sense. To them the austere Jacopone, beginning upon his struggle, joined himself, for he was to lash out without ceasing at vanity, pride and luxury.

And later when Celestine V, oppressed by the weight of his heavy burden, abdicates, and Boniface VIII, his successor, suppresses the community of "Hermits," to put a stop to the multiplication of Franciscan sects (which ended in the heresies of the "fraticelli" or in other extravagances), we find in the manifesto of Lunghezza, declaring void the election of Boniface, the name of Jacopone. For him the Boniface who persecuted the fanatical "Hermits" was the enemy of Celestine; moreover he could not excuse him for a prebend enjoyed through privilege, and not of right, when he was yet a cardinal. What wonder (he forgot in the terrible severity of his judgments that he had pardoned in himself the errors of youth!) that he violently took sides with the stern group who pronounced null the abdication of Celestine and the election of Boniface. According to some the crushing satire against Boniface

> O Pope Boniface, thou hast wantoned in this world,

was written by him; as it is to us, the idea is repugnant to the tolerant author that the humble friar should have inveighed against the old Pope, maltreated by the vengeful Colonnas and their French ruffians. At the last Dante softened his contempt in thinking of the tragic end of Boniface. Frederick Ozanam, however, attributes to him one portion of the satire.

And there occurs to me here the excellent study of Dante, written by Otto Kahn, one of those foreigners who have succeeded best in understanding the divine poet. Otto Kahn sets forth the reasons for Dante's hatred of Boniface. Profiting by the internal strife between the Cerchi and the Donati, the Pontiff attempted to ally himself with the latter in order to take possession of Florence, and Dante, who at the time sat in the Signoria, resisted him with the Bianchi to save her independence, and succeeded in sending back the papal messenger in humiliation and condemning the three conspirators. But the wrath of Boniface awaited him. A year later, having secured his wish with the aid of Charles of Valois, he sent Dante forth from Florence into cruel banishment.

But to return to Jacopone, Boniface, who showed some mercy even to the Colonnas, threw him instead into prison, and it is said that one day as he passed before his cell he asked ironically when he should come out; the sharp tongue of Jacopone might have answered, When you come in.

His cell was, however, a late and necessary purification. When

Jacopone regained his freedom the divine love was for him a light rather than a flame, and freed of his religious madness he cries out no more, but consumes himself in silent contemplation of God until his death.

And here Carla Cadorna sees deeply into the *Laudi* of this singer, who, she says, is no mere clown. These songs of his have very different intonations: they are kingly and common, philosophic and mystical. In him we find all the freshness and sweetness of the story of Francis, but also the philosophic leaning of St. Bonaventure; he is spontaneous and reflective. At the back of his pictures stands human misery. He employs satire to strike the fancy of thoughtless men and to lead them to repentance. Nor does he castigate sin alone, but penetrates into the secret places of the soul, those hidden from the aspect of virtue. He lays bare the falsity of certain "spiritual" men, grants no truce to the greedy, reproves the religious for their vices, hurls his darts at vain women, denounces empty learning, etc.

Through these songs, the author notes acutely, he means to do a social work. Since he preaches to the great and to the small, to the open sinner and the secret, not only does he uncover the sin of the individual but studies it in its relationship to the diverse social categories; he finds the roots of vice deep in the human soul, regards them from afar, and announces their terrible consequences.

The ardor, I had almost said the sacred rage, of Jacopone had its moments of calm, too; and then sprang from his heart the tenderest of songs on the nativity: the harsh and rough friar becomes lamblike. These were the oases of his apostleship.

As a theologian Jacopone took a bold attitude toward the persons of the church and toward outward forms, which was to him fine independence; but in matters of dogma he held himself within the traditions of the fathers and the teachings of the preceptors of his time.

The clear and learned book which is under discussion concludes with a comparison between Jacopone and Dante. The comparison is ingenious, but daring: Dante is a sublime solitary figure, who permits none to draw near!

But I give warm thanks to Carla Cadorna for her evocation of one of those marvelous figures of our Middle Ages, who incarnated sanctity with the example of sacrifice, transforming into the joys of the elect the deepest sorrows, bringing repentance to foolish errants immersed in their vulgar pleasures, and purifying them at the fount of the divine ideal.

Those songs of love and mercy, beautiful and simple as the notes of the Gospel, sound still in our souls as they swing between good and evil. We too, tormented by an ideal unrealized, exhausted by a science unable to settle our most harassing doubts, end by recognizing that out of the dimness of those sublime sacrifices shines still the light of comfort, and grows in our hearts the desire, the yearning, for a time of peace. To gain it, at least for our children, let us seek through active good to compare with "God's jesters!"

THE WORK AGAINST LEPROSY [1]

IT is told that St. Francis in his gay youth felt an extreme repugnance for lepers; it persisted in him even when he had given his life to the gospel mission of charity, and he used to avoid passing near the Lepers' Home, situated between Assisi and Santa Maria degli Angeli.

One memorable day he learned how to master even this last human frailty which kept him from rising like an "angelic butterfly," for while he was riding along a deserted road he met a leper. In the impetus of a more than human heroism he dismounts, draws near him, gently takes his ulcerous hands and kisses them. Then he remounts and looks around to give the last greeting to the poor unfortunate . . . but he had disappeared. Legend, always rich in sweet mysticism when it treats of St. Francis, leaves us to see with Thomas of Celano that the leper was Jesus. Jesus had come to earth after

eleven hundred years and more

to aid in this new miracle of the incarnation of the divine mercy!

The *Serafico* in this wise becomes the consoler of the most unfortunate of sufferers; he gives them alms, with compassionate courage cleanses their lacerated flesh, kisses the outcasts, whispering to them loving words of intercession, and, loving and healing his sores, changes into prayers the shocking blasphemies of one raging leper.

In the spiritual heritage left to his disciples (a heritage whose virtue it is to multiply with multiform disaster) still gleams the sublime mission of curing the horrible sickness which in the Middle Ages spread everywhere, nor has it even in Italy to-day been entirely wiped out; it still rages in a particular form in a few cold regions like the fiords of Norway, the Baltic provinces and Finland, where, as usual, souls are filled with virtue as the bodies are cleaned, and in the Balkans and Portugal. . . .

If the advances of medical science and the improvements of hygiene had been known in the Middle Ages, the great saint would have transformed himself too into a great doctor to augment his curative offices! Let us follow the Italian tradition of human brotherhood, of the unity of the sick with the well, the strong with the weak, the learned with the ignorant, and in our hearts, inflamed with a pure sentiment of compassion, we shall find counsel to offer, a contribution to make, a work of education to accomplish, in collaboration with the sons of the Assisian, religious or lay, in the great work of rescuing the nations from the last traces of physical leprosy, as a preparation for saving them too from the moral.

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[1] The International Franciscan Work of Succor "*Pro Leprosis*," in the act of initiating a campaign (March, 1924) to aid the unfortunates still afflicted with the terrible disease, asked Luigi Luzzatti, supporter of every work of compassion, for a message of encouragement in its difficult and provident mission. (Italian Editor's Note.)

His Shade Returns Again That Was Departed [1]

The saint of charity and of pious love, after the terrible scourge of the last war, after the agitations of an unquiet peace, rises on every side and beats in hearts bowed down with grief, which welcome his dear shade, as the faithful invoke his consolatory action for the repentance of sinners, to-day chiefly those who divide their fatherland into hostile camps. And not only to Italy where he was born and worked the prodigies of his inextinguishable love does the *Poverello* of Assisi return, but, what is worthy of note and of careful examination, he lives again in the centers of Protestantism, wealthy and proud, which exclude the saints in consequence of a faith severe toward outward forms. Most recent are the simple and sincere ceremonies of Canterbury and Oxford, distinguished seats of British culture and of official Protestantism. Paul Sabatier, author of books beautiful, fervid, and efficacious on the Seraphic One of Assisi (which have been translated into the principal languages of Europe and of Asia), has loved the saint and has made him loved, rousing in many a heart under every region of the sky the throb of active charity. Invited in September of this year to Canterbury he spoke in the cathedral on the subject: Does the Message of Saint Francis Apply to Our Day? The enthusiasm and the numbers of the throngs, according to what he himself has written me, were indescribable. Anglican and Catholic rivaled each other in their zeal, and in the auditory of the cathedral were to be seen monks and nuns belonging to the most diverse orders. Sabatier closes his letter to me thus: "I thought much of you then, because I imagined what would have been your joy at being present at these gatherings, where the effort of every one was exerted to search deep into the religious life."

A few days later Oxford followed Canterbury (the *Times*, despite its usual calmness, gave it large notices) in the celebration of the seventh centenary of the arrival of the Franciscans in England; since from the little group of friars, tired and worn, who entered Canterbury on September 10, 1224, two separated themselves, and having gone through London (where was extended them the hospitality of the Dominicans), entered Oxford on September 30. There again the Dominicans were first to entertain and aid them; and in the course of three centuries at Oxford the Franciscans formed ties so intimate and so amicable with the university as to leave their name permanently bound up with English culture. The university maintained the Franciscan School, and supplied it with masters before it had any of its own, and the city paid their taxes for them. Soon Bishop Grosseteste (first rector of the Franciscans at Oxford) laid the basis of the learned tradition of the order, which, out of an ignorant one, in terror of books, became thus one of the most cultured, directed by men distinguished in all the fields of human knowledge, and in such wise altering the inexorability of the founder toward studies. To the combined influences of the university and the monastery are owing the lights of the Franciscans, like Duns Scotus, William Occam and Roger Bacon. During the celebrations the vice-chancellor of the venerable Athenæum acknowledged the gratitude that his great center of learning feels toward the Minor Friars for their extraordinary practical activity and their intellectual and spiritual freedom.

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[1] December 1, 1924.

Three centuries later the Franciscans left England at the time of the Anglican Reformation, but returned to Oxford in 1910 and were welcomed with a thoughtful affection and a gratitude that division and their long absence had not succeeded in straining.

O shade of Francis, luminous as the tale of love which thou gavest to the world, didst thou quiver with an old and burning anguish, or didst thou smile in mystic resignation, when on September 30 thy order was proclaimed in the high cathedral of Oxford as among the foremost in that human knowledge which indefatigably thou didst despise? Thou who didst glory in being ignorant (whilst unmindful thou gavest its beginning to Italian poetry in the common speech), what didst thou think from on high of these far-off sons of thine, still humble and good, but full of a proper pride for having made a great contribution to that learning too, whose immediate end is not to proclaim the divine word but which can and ought to be linked therewith?

Anguished wert thou when came the inevitable time which was to modify the spirit of the Three Hundred, to affect even thy simple sons, and thou didst hide thyself away in the solitudes of Rivo Torto to expiate the disobedience and the folly of the friars. But certainly thy condemnation was not intended for the learning which seeks truth, and leaves in the heart of men first place for love of God and of one's neighbor, for good works, and for a sincere humility mindful of the Creator at every instant. That which wounded thee was rather the pride which would make learning exclusively dominant over our little selves. . . .

And yet it is strange in this age of ours that we, admiring material discovery and steeped in pleasures, should with one accord bow to the cult of the simplest, of the most ignorant, of the most uncompromising of the saints. Why is it that St. Dominic, who even from the dawn of his Two Hundred prescribed that his order, for the maintenance of its friars, establish an account sufficient for their numbers, with one over per convent, to the end that the amount in excess might be used for the purchase of books—why is it that St. Dominic, so sympathetic to our intellects, does not move us more than St. Francis? Is this perhaps a mystery, or is it rather that humanity feels in the depths of its heart the yearning for a life more conformable to the Gospel, to which it is trying to measure up? Effort will bring it success, but the chains of pleasure, of vanity, of hate, still keep it too tightly bound to the earth.

Every nation and every religion has its saints; let us convoke them all in spirit for this great revival of virtue, mutual aid, and order. We refer to that order which is the consequence of piety and of mercy, which springs not from ephemeral despotic discipline but from hearts at prayer for inner peace in order to merit the peace of heaven. In such an assemblage St. Francis would take the highest place; and, to apply the words of Dante to expiatory poverty:

> She, reft of her first husband, scorned, obscure,
> One thousand and one hundred years, and more,
> Waited without a suitor till he came. . . .[2]

SISTER CLARE, FIRST-BORN OF THE POVERELLO [1]

To all the melodies which tremble between heaven and the sacred soil of Assisi the author of this charming book has vibrated like an Æolian harp; all the sweet perfume which suffuses the air, the hills and the plain she has breathed, and she has given her soul to listen to the exquisite tale of love and of peace which echoes still from every bend, from every stone, from every flower of that fortunate and privileged strip of ground! And in the wonderful symphony, inspired of virtue, of martyrdom, of every holy joy, and woven through with the heavenly hymns that the father and his rapt sons sang blithely to God, she heard the tremulous sweet note of Clare, which gushes limpid among mystic harmonies, and the fervid, deep, solemn voice, itself like a sweetness of heaven, which rose from the smitten heart of Jacopa dei Settesoli. Then Albina Henrion wished to give life to all the notes resounding in her soul, and composed a few sweet pages full of wisdom and of poetry, of high intuition, of grand truth.

Students of Franciscan lore judge the conquest of Clare and of her virgins by the ideal of the Poverello as of singular interest, because of the influence which came of it over the order. Francis formed and fortified

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[2] Paolo Boselli, when he had read these pages, wrote as follows to Luigi Luzzatti:

December 13, 1924

My very dear friend:

Your comparison, new, acute, and wise, between the two saints, seems to me very happy. It is a mark of civilization that love is valued more than learning. It is the power of the spirit, superior still to that of intellect.

The Poor One of Assisi weds charity and will live forever; St. Dominic contends, and his life of enlightenment suffers all the changes of history and of thought—for the heart beats always after one fashion, but not always in the same way does the mind see.

After the preface to *The Little Flowers*, which I have reread and which seems to me unsurpassable, you discovered rare harmonies once again, went through the world to find again the glory of Assisi, and in the splendor of your words and of your love of Francis showed it to Italy.

There is an intimate unity between the mass of the people and St. Francis. It is his return for a life of love.

You who are most learned appreciate St. Francis more than St. Dominic because you appreciate humanity more than wisdom. Dante lauded St. Francis, but does it not seem to you that the genius of St. Dominic was more closely in sympathy with his own?

P. BOSELLI

(Italian Editor's Note.)

[1] Preface to *Sorella Chiara, la primogenita del Poverello*, by Albina Henrion, Turin, International Publishing Society, 1925.

Clare; Clare sweetened Francis. He infused into her tender twin soul constancy, strength, endurance in their common ideal; he was the pillar upon whom leaned the weak maidens of Clare, the spring which quenched their thirst after the ideal and nourished them in divine wisdom, the honored father, moderator of pains inflicted upon innocent flesh, and the guide who brought to fruit the delicate flowers of San Damiano.

Clare was to him a faithful sister soul, devoted in the most ineffable veneration, the oil which fed the flame, his counselor in the days of his trial, a hope for the future and for the unity of the rule. Staunch in her gentleness, she never yielded to the current flatteries of innovators, and remained the solid bulwark of his first teaching with a few faithful disciples.

And Clare was still the inextinguishable lamp which shone over the rule for another twenty-seven years after the passing of the master—shone bright (almost a reproach!) within the always rude walls of San Damiano, even when there rose majestic (discordantly, one might almost say, against the holy, simple background of the hills) the sumptuous church that Friar Elia erected proudly to the glory of the founder.

Francis gladdened the soul of Chiara dei Scifi, the heart of Jacopa dei Settesoli; the one the counselor, the other the consoler. If the latter brightened life for him and made death easy for him it was Clare who solidified and strengthened his order with her fresh youth, her continuous good works, her unshakeable faith. That clear and strong virginal mind embraced the whole height of his ideal, but with practical sense (a singularly feminine gift) rendered it easier, more accessible to all, at the same time protecting it from profane contacts, and spread it beyond little Umbria, beyond great Italy. Perhaps Friar Bernard alone had as much as she of the worship of absolute poverty; perhaps no one after the *Serafico*, not even the gentle Leo, knew as well as she how to include the whole of creation in a great, illimitable love. And when the new currents set to turn the order from its difficult course and to start it along a broader way, when it faced about toward the consolations and distractions of learning, forgetful of the unchanging attitude of the founder toward studies, when it accepted possessions and abandoned the jealous prescription that it keep itself absolutely poor—even then the ideal continued to be followed faithfully and in its entirety by the Spirituals and the Poor Clares.

So when we pause in rapture before the apostle of perfect charity, of the sincere return to the seductive simplicity of the Gospel of inexhaustible love, we ought to bow our head reverently before San Damiano too, for Francis drew no little strength thence, and his order no inconsiderable aid.

But to return to the book of Albina Henrion, I thank that cultured and gentle lady for the joy with which she has filled my soul, and for the comfort held out to so many spirits harassed by an ideal unrealized, to so many who are sated with worldly pleasures, to those who are wasted by doubt, and to all those who cannot find in our erudition the last word of this day's cheerless civilization.

ROME, April, 1925.

ST. FRANCIS IN THE ARTIST'S VISION

ARMANDO ROVERSI has made a number of drawings to illustrate *The Little Flowers*, in which the primitive simplicity of the lines finds itself in accord with the plain and unadorned narrative.

We can see now before us (as our heart had already perceived by intuition) the ethereal figures of the Saint of Assisi and of his followers, the Umbrian scenery lighted up by ineffable sweetness, the narrow white cells whence, eleven centuries after the appearance of Christ upon earth, a sublime example of seraphic kindness was again shed upon the earth, and turtledoves and other birds flew over proud turreted castles and humble huts, heralds of better things for humanity.

These pious legends which must refresh hearts withered by skepticism, as the clear streams assuage the thirst of parched meadows, are outlined before our eyes that are too used to complicated sights. A sense of consolation and relief makes our heart serene, a new hope is lighted up in our tormented souls, and we have a vision of paradise.

This is another miracle of love that the Saint of Assisi has performed.[1]

A young artist with a pale face, a mystic and austere countenance; one of those whom the Poor Little One, had he met him in the solitary lanes of his peregrinations, would have stopped and led to preach to the sinners of his time, wished to give form to his conception of St. Francis in his sublime life on this earth, surrounding it with the light of that gentle ideal that would have taken hold of him if, seven centuries ago, he had joined the holy company of St. Francis' followers.

He adds now with these paintings an original art to the symphony of light and colors, to the concord of music and prayer, that rises to heaven in this Franciscan revival as a hymn of devotion, as a promise that we will listen to the distant voice which calls us to a life, rude in appearance but full of true wisdom, in the face of the political and social complications of our day.

St. Francis moves us when seen in these paintings, and stands before us as an admonition and ineffable consolation.[2]

"THE LITTLE FLOWERS" IN SCHOOLS AND WORKSHOPS [3]

SEVENTY years ago the relics of St. Francis and the grave of his sister Clare, which had come to light after centuries of rest in the damp sepulcher of Assisi, revived among believers the cult for those faithful disciples of the Divine Teacher. And after the seventh centenary of the saint's birth this cult received a new impulse from men of all faiths, principally among all the others Paul Sabatier. This man of great soul, this lofty thinker and seeker of goodness wherever it shines, published in well-considered volumes his great discoveries on the mission of the saint, and called back minds exhausted by science, wearied of mundane pleasures, powerless to unveil the mysteries of life and death, to the pacifying serenity of an ideal preached in all times, first heard by the mystic Middle Ages, but made for all the centuries of whirling progress; an ideal that consoles men of simple soul, quiets the restless, and assuages the thirst for truth and justice felt by humankind. For St. Francis' aspirations, drawn from the Gospel, found their essence in the laws of love and the harmony of all creation. They prepare for every social exigency, even the most modern one, through true human brotherhood, so different from that preached by anarchists; they do not clip the wings, dry up the spirit, or cause the heart to become indifferent. These aspirations, if realized, would carry the restless communities of mortals to that perfect state which is possible on earth.

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[1] Written for the fifty illustrations of *The Little Flowers*, engraved by Armando Roversi.

[2] Written for the Franciscan paintings by Giuseppe Papiani.

[3] Preface to *The Little Flowers of St. Francis of Assisi* in the special edition for schools and workshops, edited by Father Zeffirino Lazzeri, and illustrated by Alaïde Vanzetti (Florence, G. Giannini & Figli, 1925).

The appeal of this eminent French writer gave eloquent voice to a longing which already existed in the souls of men, and confirmed our doubt that science does not suffice to save individuals, nations and the whole of humankind, and that it does not serve to console the spirit afflicted by pain that social progress has increased. However, his work was too elevated, and his erudition could not come down to the level of simple and uncultured minds. The masses remained outside this enthusiasm and this revived cult of a Franciscan ideal, while continuing to pray to the "Saint of the Altars." It was like the mild breeze which moves the tops of tall trees but leaves unstirred the leaves of the hedges, the grass and the flowers of the meadows.

Still it is important, it is necessary, to make this spirit of redeeming goodness, of joy in permitted ease, love for all nature, penetrate among the masses, among those who perform obscure and modest tasks in fields and mills, those who are the substance of the state and of human society. We are not asking anybody to embrace voluntarily St. Francis' absolute poverty; but we fervidly ask men in all classes of society not to run eagerly after lucre, to be satisfied with honest earnings, thinking that all which is spontaneously lost by the well-to-do may be gained by the poor. We ask them to be resigned to work even when it does not seem to be sufficiently remunerative, and to make their own the candid joy which was St. Francis', even in the most desolate moments of his earthly life, a joy which consists in a condition of the mind that derives gentleness from sufferings, forgiveness for the offenses of others, and the occasion to heal with works of salvation the injury inflicted upon us.

These declarations would not perhaps be sufficient to make *The Little Flowers* penetrate into the heart and mind of those who suffer and toil.

But the masses, especially the Italian masses, are on the whole composed of men and women not without the artistic sense, who can easily understand through images what the book sometimes could not teach them. Their state of mind corresponds to that of children's intuitive ingenuousness, disposed to listen with greater attention to, and to feel more deeply, stories illustrated with a simple art, worthy of the subject. This new edition of *The Little Flowers*, prepared with loving care, seconds the instincts of the poorer classes and of the very young for whom it is intended. It will not go into the hands of the learned but of the relatively ignorant, and the latter will never forget the story nor the illustrations that touch the heart before they instruct the mind; and if they do not succeed in instructing the mind it will be enough if they are kept in the sanctuary of the heart.

We Italians, to offer an example—and in this rich and poor, ignorant and learned are very much alike—have not sufficiently obeyed the obligation to respect animals. We do not as yet know (some day research may be made in that direction) if in the Middle Ages, in the times in which the saint lived, people were as a rule more cruel to animals than they are now, while Asiatic religions, so much inferior to Christianity, considered in the most remote antiquity and still consider to-day as our younger brothers all those beings who were also created by divine wisdom.

How horrible is the spectacle of little birds blinded in the silent countryside, in order that they may serve as decoys for others of their kind destined to death, through their sorrowful singing! And in that way not only is a moral crime committed but serious harm is done to the plants that the little travelers of the air visit and save from destructive insects. Much has been written and published by benevolent associations against cruelty to animals, to persuade us to a consideration that the desire for immediate gain kills many a creature, even though a feeling of pity is awakened for an instant in the heart! Among the rude people who prepare themselves for greater slaughter by this minor cruelty, among them, who never hear a sound of reproach for their heartless acts, must vividly appear the figure of the saint, when he tames the wild turtledoves (taken away from the hands of a youth who wished to sell them) with these truly scriptural words: "Good youth, I pray thee give them to me, that birds so simple, which in the Scriptures are likened unto chaste and humble and faithful souls, come not into the hands of cruel men who would slay them." The youth obeyed. St. Francis then addressed himself to the turtledoves, spoke to them, prepared nests for them, and the youth who would have sold them was moved, asked to become a friar and "lived in the order in great sanctity."

To-day we lack a saint capable of such admirable conversions; but his spirit is to be found in the immortal words which, read by children, are never forgotten, and, read by those who are fond of wanton hunting, may have the virtue to exact repentance before all sense of pity is lost. If the saint is depicted with simple and effective art when he speaks to the turtledoves, with the youth wondering near him with tears in his eyes, we may in a measure feel that the saint is again among us. And the child who has read in school the tender story, and spoken about it with his teacher, will not find it easy when going home to look for nests of birds or to run after the peaceful animals, to strike them and throw stones at them.

Turning, then, our thought to other bitter things of life, we think of those who are blasphemous and make the air impure with their sacrilegious oaths. Usually these blasphemers are also the most pitiless toward animals, and when they are overtaken by physical sufferings or by the sorrows of life they send to heaven curses and oaths instead of prayers. Even here the method of treatment adopted by the saint is more effective than all measures taken by the law, and the reproach which often is as vulgar as the blasphemy against which it is directed. Let us place under the eyes of the people these pictures, these immortal words of *The Little Flowers* about the leper, who "not only did revile and belabor whomsoever served him, but he blasphemously railed upon Christ and the Virgin Mary." The friars who served the leper strove to endure patiently the insults to themselves, and counseled resignation to the unfortunate. Scandalized and in despair they gave notice to St. Francis, who went to see the leper, undressed him, and bathed him with his own hands. And even as the flesh began to heal the soul began to heal also, and the maledictions were converted into the most fervid and most sincere prayers to God.

How much truth is in this *Fioretto!* The redemption of the soul is, under divine auspices, joined to the redemption of the body, the spiritual health to the physical health, and the words and deeds of the saint, of this great unschooled saint, who surpasses those of greatest learning, shine with divine splendor!

Many of these stories, if read in the schools or in gatherings of true moral redemption, will renew the miracle, to temper the pains and sorrows of the afflicted, to place the doubters on the straight road, and cause repentance in the guilty. No one need seek knowledge in this book; let him seek only pity, and feel pity for living beings while reading it. How much can be expected from a nation of studious believers, and how little can be hoped from a learned people oscillating between vice and virtue!

St. Francis did not care for books, he did not study, but he possessed all the feelings and performed the acts which preserve human societies from sure decadence. Too many scientists aspire to immortality by inventing and perfecting methods of destruction which make possible the most horrible wars. But the ideal which we must try to approach is the union of knowledge and goodness; St. Francis of Assisi and Leonardo da Vinci. But, since this miracle is far from easy to accomplish, it is much better to be Franciscan first and then a man of learning.

This new text may be placed to great advantage in the hands of working people, arouse a holy inspiration in the hearts of children, and call up a sad remembrance of the happy ingenuousness of youth in the old. It cannot fail to have its miraculous effect, if it is used in the education of children with simple and sincere interpretations, if *The Little Flowers* is given first place among the texts used in primary schools, which ought to start with lessons of kindness and instill the desire to help the unfortunate as the first act of an instruction which should couple virtue with knowledge. The children ought to talk about *The Little Flowers* with their teachers, and then narrate to their parents the wonderful legends of the salutary effects of love for God. All religious creeds, all political opinions could give their consent to an apostolate which knows no other difference than that which exists between good and evil, and invites to love and peace in the name of sacrifice rewarded by inner joy. Oh, if the book of *The Little Flowers* could enter as a beloved guest into the new homes for workingmen, evermore purifying the air! oh, if at night the family gathered around the lamp would add sometimes to good reading and to prayers a Little Flower, with the explanation and comment reading in school by the child! We are thinking of educational and recreational institutions to occupy the time of the worker after the hours of toil, justly diminished, and why should not *The Little Flowers*, clear, simple, not costly and so beautifully illustrated, become one of the favorite books of the hours of leisure? This alliance of labor and elementary culture in the cult of St. Francis would prepare the masses to give first place to unselfishness and charity in public and private life, and consecrate the people to the reëstablishment of a balance between the miracles of science and the miracles of kindness. Then we could all rejoice to see again the Saint of Assisi among us, every day bringing about a spiritual redemption. And thus may our prayers be granted;

Let his shade return again, that was departed.

ROME, May, 1925.

THE CONTINUING BROTHERHOOD OF ST. MARINUS AND ST. FRANCIS RECONSECRATED IN CONNECTION WITH THE SEVENTH CENTENARY [1]

THE Seraphic One had permeated with the spirit of his apostolate all of Mount Titano before the Minor Friars, the Capuchins, and the nuns of St. Clare came to honor this place with their bare cells. And when they set foot upon it, they perceived that the air and the souls of men were already impregnated with Franciscan goodness. Accord with the evangelical ideal seemed simple and easy, because this community of laboring believers had been following this ideal for eight hundred years before the most holy among the Italians and the most Italian among the saints appeared upon earth. It had followed it since the time of the fall of the Roman Empire, when the feet of Asiatic hordes pounded the beautiful plains of Europe and barbarity overthrew the corrupt civilization of Rome; when the mind seemed lost in the great disaster and darkness descended upon mankind.

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[1] Message written for the committee for a monument to St. Francis in the republic of San Marino.

Perhaps the ideal of the Poor Little One had obtained here an easy victory because, before the *Murata* was raised, his spirit had met the soul of St. Marinus which, lighted by the same mystic love and the same longing for blessed simplicity, for peace among men, for holy equality, extended his hand to the Saint of Assisi, assuring to him a perpetual asylum in his *Novella* which had already for centuries satisfied the souls of the mild and happy inhabitants of these hills. More than a teacher and a monitor, here St. Francis shone as a brother in the idea, and what would have been the joy in his heart if in his frequent peregrinations and in the visit of which the legend speaks to the happy valley of Verrucchio, he had ascended with tired steps the historical Mount Titano!

The great little republic, small for the space it occupies and great for the pure principles constantly professed, will also have her statue of the Seraphic One in the seventh return of the centenary. This is a beautiful thing, and we cannot but approve with fervid love the pious initiative of the Capuchins and of the government. He will rise on the hillside and will bless the place around him; his hands pierced by the stigmata will touch the rude hands of the stonecutter, and both of them will be a perpetual defense and an inviolable shield to this fertile land, to its free institutions, to the wise, laborious and kind people who live here, an admonition against future warfare, and an encouragement to those who suffer and hope for happier times.

In this community there is something marvelous that directs and upholds human actions, and infuses wisdom into men of humble minds in care of the public weal even when knowledge is little, for they have sagacity without malice, courage without arrogance.

Let us never forget that on these hills of freedom, inhabited by Italians forever, when all our country lay oppressed by foreign and domestic tyrants and the day of that redemption which Victor Emmanuel, Mazzini, Garibaldi, and Cavour prepared with stirring appeals and noble deeds was still distant, an Italian flag always waved inviolable and sacred, so that tyrants had to respect it and defer before it. And let us also remember that Marinus left his followers free of two masters, and affirmed Dalmatia on this privileged summit as an Italian land.

As it does from Assisi, from the small republic founded by the stonecutter saint who came from the sea, a word of brotherhood and peace goes to uneasy and tired humanity, a terror to cowards, to the wicked, and to those who crave nothing but pleasure, but an ineffable consolation to the afflicted and to those who hunger for a divine ideal. From this nest of freedom, in the name of Marinus the civil redeemer, and of Francis the moral redeemer, let us call down that peace which in the distant night, under the ancient Oriental sky, the angels announced to men of good will.

REPUBLIC OF SAN MARINO, July 30, 1925.

PART IV

MISCELLANY

I

HIGH ASPECTS AND EFFECTS OF THE CULT OF GOD

RELIGIOUS FREEDOM AND THE REDEMPTION OF WORKERS [1]

President.—If the convention allows me I shall make certain statements about the agenda which is before us. I shall be sparing of words, both on account of the delicacy of the subjects and of the desire which we all feel of closing the discussion.

I shall not follow Signor Nitti in his inquiry into fatalism, in spite of the alluring theme. I belong to that philosophical school which is founded upon the responsibility of individual conscience, and I believe that only weak persons bend under the weight of fatality and that a free people dominates its destiny, but this is not the place nor the time for a disquisition of such a character.

I am trying to study the history of coöperation and look for it in those places where it has given its principal fruits, especially by virtue of two eminent men, Holyoake and Vansittart Neale, who after the inevitable political and religious discussions raised the banner of peace of the English coöperative system.

Still, how different were those two men in their tendencies and their aspirations! Holyoake is a rationalist who refuses to submit himself to the yoke of God, and who fluctuates with his thought in a kind of philosophical pantheism. In politics he is a radical in the English fashion, which makes him resemble a finely manufactured and flexible blade. Vansittart Neale, who was taken by death a short time ago, never lost his feeling of faithful allegiance to the established Church of England, the most rigid and strict of all Protestant sects. His political creed allied itself to his religious convictions, he being enrolled in the Conservative party.[2]

These two men who had they entered Parliament would have always voted against each other, could not hope to be united even in heaven, because Holyoake did not believe in a future life and Vansittart Neale excluded the rationalists from his particular heaven. They joined forces however for the realization of a common ideal of emancipation of the people, and in the admirable harmony of their personal friendship taught the world, taught us, who are nothing but pale shadows in comparison with them, that those who are divided for reasons political or religious in the face of human suffering, may speak of their love for the common people but do not feel it in their hearts.

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[1] At the convention held in Bologna in 1895, where great numbers of men engaged in coöperative work in France and Italy were present, a motion was presented—above all for patriotic reasons—to refuse to Catholic rural banks the power of legal incorporation. I opposed the motion in the name of freedom, and was fortunate enough to change the opinion of the assembly. (Prof. Luzzatti served as president at this convention.)

[2] Both men are now dead.

I beg, gentlemen, that you will allow me to express my opinions with complete frankness, because here I am second to none in my devotion to coöperation, and I desire to defend it from the attacks of all kinds of partisanship. I know that when any humble sufferer—be he still faithful to the God of his fathers or should he have renounced that faith—comes near me, I do not search in his secret soul to find out what his religious ideas are and I only try to ascertain his worthiness of spirit in bearing the burden of human sorrow. In gatherings of coöperation I do not ask from labor which it is my desire to emancipate with thrift and foresight the reward of interested political or religious professions of faith. The pious and serene priest can be welcome in the trusty administration of the fraternal union, and the stoic rationalist must also find a welcome in it. I have need of all honest sentiment and all honest help to fight the sufferings that are around us, and I should feel guilty if I deprived myself of the aid of an upright man only because he dissents from my religious opinions. I can understand that there can be coöperative associations on the basis of religious creeds and political opinions; but, following in this the example of England, I venture to affirm that these associations belong to a type inferior to those which recognize in the first place the humanity of work, of honesty and of suffering, leaving to other organizations the care of the religious or political souls of men.

But after this statement, which I joyfully perceive to be approved by the entire assembly, I cannot accept Signor Griffini's motion, nor Signor Maffi's, nor Signor Nitti's, not even Signor Barbanti's observations, and I beg those present to accept in its integrity the motion which I have proposed.

I am second to none in my admiration for my friend Griffini's intense patriotic feeling. It is not to be wondered at that all of you were quivering with patriotic indignation when he, denouncing the confessional organizations and declaring them opposed to the integrity of our country, asked this convention to formulate the wish that by provision of law the public institutions of credit and savings should refuse aid and discount to them. But I trust that the convention will not allow itself to be led into this course in the name of a jealous and suspicious patriotism, and will not superstitiously worship this exclusive divinity to the exclusion of all others. In many small communities there are only Catholics; the institution of a rural bank becomes almost by necessity confessional, and it has not been proved nor will it ever be proved, fortunately for Italy, that the members of a coöperative association may be pledged to oppose the integrity of their country only because of their beliefs. We must also add that many of these organizations which place themselves under the banner of religion do not propose to fight against Italy, but to fight against the lack of religious belief of the Italians. Surely our organizations, open and free to all honest workers, have a better basis; the protection of commercial laws, the constitutional guarantees, and the use of the public institutions of credit cannot be determined by reason of religious or political faith but must be judged by economic criteria. If we were to do what Signor Griffini is asking, our banks and savings institutions would be changed into chairs of rationalism and patriotism, and for that reason alone they would cease to be guided by economic standards which have in themselves their morality and their justice.

Gentlemen, let us not bring to matters of credit and finance the flames of our religious and political passions! It is my duty to ask you to be on your guard against the ardor of a patriotism which I admire and which I share, but which must not be given undue preëminence in the matters that occupy us. If a national bank were to discount the paper of a Catholic bank only because of its Catholic status it would commit an error equal to that of refusing the discount because the bank asking for it is a Catholic institution. Discounts must bear responsible signatures, not certificates of confession or of rationalism.

For this very reason I cannot yield to the charm of my friend Nitti's eloquent and witty speech, by which the guarantees of commercial law and regular registration would be denied to sectarian organizations. I cannot admit that a sort of lay inquisition should be established, and we would surely come to that if we were to follow Signor Nitti's advice, which seems simple but is in fact dangerous. With what right can we deny the registration prescribed by the commercial code to citizens who create an economic organization according to the provisions of the law, and do not offend public order and public usage, only because they declare that they are working and doing business in the name of God, even if it is according to their own God ideal and not ours? If the addition of this ideal is too much for you, they need it, and we must respect them in this faith of theirs, when they observe the essential provisions of the commercial code. Let other people who dissent from them found organizations of the character that we desire, open to all, and competition, supreme law of life, will decide between the two. We have won a victory over the theocratic state after a memorable struggle, that theocratic state which claimed a right to inquire into the religious opinion of the citizens. Who would dare to-day to resume the old methods of theocracy and use them against theocracy itself?

Signor Maffi objects to the position taken by our organizations in order to defend ourselves from the charges brought against us. In his opinion, which I understand and appreciate, we must not condescend to defend ourselves from vain and obviously untrue accusations. I beg to differ with him; conventions are made to create, consolidate, and direct public opinion. Since it has been said and published that our organizations are atheistic and subject to freemasonry, our silence would appear to be consent, and it might disturb those pious but credulous souls who remain faithful to our organizations because they know that they are based upon a foundation of justice and tolerance. We would surely play into the hands of our opponents if we allowed the believers to abandon our coöperative organizations. The believers and their priests form a not unimportant part of our organizations, which do not demand a baptismal certificate but only adherence to ideals of work and thrift. We must resolutely fight against the two extreme tendencies, which in the names of religion and country would create a fatal conflict between religion and country.

I shall not here answer Signor Barbanti's observations. For him only clericalism and collectivism exist; the only way to save human society from clerical organizations is to throw it into collectivistic organizations. We must oppose, in his opinion, the new faith of collectivism to the irresistible appeal of the church. But if Signor Barbanti had here the opportunity to inquire with me into the value of his assertions, how easy it would be for me to prove to him that if science and human conscience did not exist to save the world from the dangers of collectivism he would allow the confessional organizations to win an irresistible victory! Because if the people were placed between the two horns of the dilemma which has at one side the Socialist organization and at the other the confessional associations, the majority would choose the latter.

And then if Signor Barbanti accepts coöperation, which is based upon a foundation of savings, that is to say of capital, he is not that fear-inspiring leveler that he imagines he is, and without noticing it he disowns collectivism, a happy contradiction this between his doctrine and his conscience, and one which gladdens me.

To resume, gentlemen, I exhort you to leave aside all other motions and to approve ours, which represents liberty, morality and responsibility. It is not true that by doing that we shall show a tepid patriotism; the majority of Italians believe in God and in the immortal destinies of their reunited fatherland; and to this majority we present our organizations, founded upon thrift and upon work, open to all. Those who are neither conspirators nor sectarians can serenely stay with us.

But however lofty our ideal may be we must not alienate the liberty of those who dissent from us. I defend with equal ardor my own ideal and freedom for all, because if my own ideal satisfies my conscience when I defend the freedom of those who oppose my opinions I feel that I am rendering homage to the civil virtues of our times, which are not founded upon inquisitions or proscriptions but upon free controversy, which is vital to the welfare of the people developed in freedom.

Follow me, my friends, in this path, which is that of honor and of Italy.

Nitti.—San Paolino of Nola once went to deliver a sermon, and as he spoke poorly he was mistaken for a pagan and driven away by the people. It seems that the same thing has happened to me, because the president has been very severe with me. The question which I want to advance now is very simple.

President.—Please, Signor Nitti, limit yourself to a statement.

Nitti.—I declare my vote as follows: I said that we must help those coöperative organizations which have not exercised pressure upon the conscience of their members, because when coöperation is truly enlightened it admits non-Catholics also. I have appealed to the legislation which provides punishment for inciting class struggle. . . .

Various members.—Let us vote!

President.—I am reading Signor Nitti's motion:

> The Convention, recognizing that coöperation cannot have a confessional character if it is truly to aspire to the welfare of the working class, expressed the wish:
>
> (a) that the banks of the people deny discount to the organizations which accord political or religious preference in the practice of their business.
>
> (b) that the benefits of the law be severely denied to those organizations which violate freedom of conscience by compelling their members to make a declaration of religious belief.

The motion is voted upon and is defeated.

President.—I am reading now Signor Griffini's motion:

> The Convention points out to the great banks the danger to which they would expose the country by favoring the rural banks of a confessional character, by the actions of which the diffusion of popular credit is not an end in itself, but a powerful weapon placed in the hands of those who combat the integrity of our country.

The motion is voted upon and is defeated.

President.—I ask Signor Maffi if he insists, after my declaration, in presenting his motion.

Maffi.—The president knows that my motion is the result of a discussion which took place in the council of the league. However, as I do not wish to expose it to a vote that may be prejudicial to it, I withdraw it, and I shall approve the last item of the motion presented by the committee. I shall abstain from voting on the first and second items of our president's motion, as I am not in agreement with him.

President.—Very well. Now let us vote on my motion, item by item. First item:

> The convention expresses the wish that the banks of the people, the savings banks and all other organizations of that kind persist in abstaining from every religious and political preference in the practice of their functions, a preference that by weakening the only sound standard of probity and economic fitness always ends by harming the solidarity of the organizations which practice it.

Those in favor raise their hands. (The item is approved almost unanimously.)

President.—I am reading the second item:

> The convention denies the accusations, which it feels it does not deserve, of antireligious and sectarian tendencies attributed to organizations of credit and coöperation, as they do not profess any religious or political belief or program as such, never asking from their members or customers any declaration of faith but only the proof that they are honest and diligent, asserting that the boards of directors of such organizations are composed of men professing different religious and political opinions but united in the thought of the people's welfare.

Those in favor raise their hands. (The item is approved almost unanimously.)

President.—I am reading the third item:

> The convention expresses the wish that our associations may intensify their action, especially in country districts, promoting local agencies, rural banks, coöperative distilleries, syndicates for exportation, and other institutions similarly connected with the banks of the people, with savings banks, etc., and it invites the Italian organizations to imitate what has been done in Parma.

All in favor raise their hands. (The item is unanimously approved.)

COMMUNICATION REGARDING SOME BOOKS ON RELIGIOUS FREEDOM [3]

I BEG to present to the Academy, at the request of the distinguished authors, the following works, all related to the same sublime thought—the defense of the sacredness of human conscience:

La Libertà religiosa, Vol. I, *Storia dell'idea*, dell'avv. Francesco Ruffini, professore ordinario all' Università di Torino.

Histoire de la liberté de conscience en France depuis l'Edit de Nantes jusqu'à juillet 1870, par Gaston Bonnet-Maury (Paris, 1900).

*Les précurseurs français de la tolérance au XVII*e *siècle*, par Franck Puaux.

Etudes sur la Révocation de l'Edit de Nantes, par Franck Puaux et A. Sabatier.

Michel l'Hospital et la liberté de conscience au seizième siècle, par Henri Amphoux (1900).

These works contain a series of profound researches which are intended, both in France and in Italy, to expound the idea of religious freedom and its triumphs through the most terrible contests and strife.

The practical import of such research cannot escape our Academy, for at the end of the nineteenth century, which saw the triumph of religious freedom after so much sacrifice of martyrs and so much splendor of philosophers, there are sad indications of such a vital principle being darkened; there are even threats of civil wars, which could find their motive in the abominable conflicts of religious belief.

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[3] Lyncean Academy, meeting of November 18, 1900 (Summary).

Therefore those writers who continue with scientific methods the task of defending the most jealously guarded and precious of human liberties seem to us worthy of our attention and admiration.

The work of Professor Ruffini appears from the first volume to be full of substance and vital nourishment. He follows the thread of religious freedom from classical antiquity through the Christian Middle Ages to the end of the eighteenth century, and with secure historical mastery he draws from the purest sources. The investigation into the opinions about religious freedom and into the various Italian laws at the end of the eighteenth century is new and highly interesting, only it could have been more exhaustive. On the whole this volume honors Italian historical research.

I beg to advance two remarks. Since Professor Ruffini observes that classical antiquity lacked the concept of religious freedom and perhaps lacked also that of systematic intolerance, why did he fail to mention the edicts of King Asoka, who five hundred and fifty years before the Edict of Milan (313 A.D.) preached in favor of the principle of religious freedom and—if we may say so—imposed it upon the peoples over which he ruled?

Perhaps it was my good fortune to describe for the first time, a few years ago, those edicts of King Asoka's from a constitutional point of view.

I do not think Professor Ruffini's remark exact when, in speaking about the perfect demonstration made by Themistius (born 325 A.D.) on religious freedom, he accuses me of having represented him as a solitary thinker who, enclosed in splendid isolation, alone perceived the duty of the state to accord to the citizens full liberty in the practice of their religious beliefs. Themistius succeeded in giving the most complete and technically perfect demonstration of religious freedom, in many of its parts superior to that of the greatest writers of our own times. In that same period Ammianus Marcellinus, Valentinian and other magnanimous spirits wanted to dominate, from an ideal height where divinity appeared radiant, the old creed that was disappearing and the new which was not yet dominant, and they concluded admirably in favor of freedom of conscience. But to Themistius must be given the merit of having written—as I remarked above—one of the finest scientific pages about freedom of conscience. His originality consists not in the fact that he enunciated an idea common to others, but in the complete and technical form of his ten constitutional arguments.

In spite of these slight differences of opinion I am happy to recognize the great merits of Professor Ruffini's work, and I am looking forward to the publication of the second volume, which I trust will not be delayed, for the increase of the glory of this kind of research, rather neglected in Italy and not too often undertaken elsewhere.

It is my intention to speak at one of the next meetings of the Academy about the French works on the subject of religious freedom which are grouped around the Edict of Nantes. Meanwhile, I am happy to remark that it is greatly to the honor of France that men of great talent are working to bring to light the moral and political greatness of religious freedom just when the so-called nationalists would like to introduce unity of faith by the violent means of proscribing the dissenters, and thus attempting a renewal of the revocation of the Edict of Nantes.

To these writers I send the expression of my admiration from the seat of the highest Academy in Italy, for science and freedom of thought are indissoluble guarantees of human progress.

HENRI AMPHOUX'S VOLUME ON MICHEL DE L'HOSPITAL [1]

I AM presenting to-day to the Academy a recent book by Henri Amphoux entitled *Michel de l'Hospital et la liberté de conscience au seizième siècle.*

M. Paul Deschanel, when assuming the presidency of the French Chamber of Deputies on January 12, 1899, invoked in an eloquent speech the spirit of the great chancellor Michel de l'Hospital who exclaimed, amid the fury of the civil wars which covered France with blood in the sixteenth century: "Let us abolish these names which divide us, the diabolical names of Huguenots and of Papists."

The great chancellor kept faith through all his life with the ideas of religious freedom which had been implanted in his mind at the University of Padua where, on account of his talent and of the freedom of studies permitted in those times, he was appointed substitute professor, before accepting a professorship at the University of Bologna. Padua was still under the influence of Marsilius, who had demonstrated in his memorable book *Defensor Principis* that the Holy Scriptures incite us to teach, to persuade, but not to compel and punish. He denied the right of the clergy to punish heretics, and summarized his ideas in this admirable sentence: *Coactis nihil spirituale proficit ad æternam salutem.* Marsilius of Padua distinguishes admirably the religious sin, which God alone may punish, from the violation of human law, which the state punishes. A scientific divination this, which is acted upon only in our day, and not everywhere, since the modern legislator is incompetent in religious matters and has only the right to punish—as happened for the Mormons in the United States—the effects of religious doctrines when they break up the principles of civil life, such as family unity.

M. Amphoux, who still acknowledges the influences of the Paduan school upon the chancellor, ignores the leaven of Marsilius' courageous doctrine.

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[1] Lyncean Academy, meeting of December 16, 1900.

However that may be, it is a splendid thing to see a man who had reached the apogee of power asking for peace in the name of God, on the eve of the massacre of St. Bartholomew's Day, a crime of which France is still bearing the consequences. The chancellor put the question in the following way before the rulers of France: There are only three ways open, either to kill the Protestants, or to send them into exile, or to grant them the free practice of their religion. The first decision causes horror and furthermore could not be put into effect for practical reasons, the second would deal a blow to the state, depriving it of precious elements.[2] Humaneness, reason, religion itself advised tolerance.

This lofty way of reasoning is worthy of a statesman and brings to mind Guizot's admirable sentence: "The character of the sixteenth century is indicated by the fact that the men of that epoch were as great as the events."

But the Pope, the Jesuits, and the Duke of Alba, who had a fearful conversation with Catherine de Medici about the necessity of destroying all the members of the reformed religion, rendered null the influence of the great chancellor, who had to witness in frightful indignation the massacre of St. Bartholomew which took place on the twenty-third and twenty-fourth of August, 1572, an ill-fated date in the history of mankind.[3]

Hippolyte Taine wonders what would have been the moral greatness of France if that nation had not had in its history the massacre of St. Bartholomew and the revocation of the Edict of Nantes. It would have been sufficient to follow the advice of a great Frenchman, Michel de l'Hospital, instead of listening to the counsels of the Duke of Alba, who was an enemy of France.

The spirit saddened by those dreadful crimes committed in the name of God rests itself on the domestic idyl of the chancellor. He was a fervent Catholic and his wife was a fervent Protestant. They represented with their mutual love and the ineffable joys of their family life that liberty of conscience which they would have liked to give to all France in a kind of divine sacrament. But unfortunately history teaches that if the idea of God tames the wild animal that is in man it can sometimes move human beings to the greatest cruelties that can be registered in its pages.[4]

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[2] "*Il nous faut dorénavant nous garnir de vertu et de bonnes mœurs et puis assaillir avec les armes de charité, prières, persuasion, paroles de Dieu qui sont propres à tel combat. La bonne vie, comme dit le proverbe, persuade plus que la parole. Le couteau vaut peu contre l'esprit, si ce n'est à perdre l'âme avec le corps. . . .*"

[3] In his lectures on modern history in Cambridge University, Lord Acton, a sincere Catholic, expresses himself as follows about the massacre of St. Bartholomew's Day: "There was less blood shed in the September massacres and under the revolutionary tribunal in twenty-three months than the French Catholics caused to be shed in as many days."

[4] L. Battifol in his work *Le siècle de la Renaissance*, published in Paris by Hachette (1909), tries to diminish the responsibility of the Catholics and to increase that of the Protestants, whom he accuses of having also aimed at a unity of their faith in France by adopting the same means of violence sanctioned by their opponents. Even if these

WE GO BACKWARD IN RELIGIOUS FREEDOM [1]

(The Established Church of Wales)

As is known, Gladstone dared to abolish the Protestant church in Ireland as a dominating corporation and a symbol of the British rule imposed upon Catholic Ireland. The effects of this decision were highly salutary in religious affairs, and public law obtained a signal victory in the memorable act that went into effect on January 1, 1871.

But the churches of England, of Wales and of Scotland are still established, that is to say dominating and official, although only a small minority in Wales and half of the population in Scotland are followers of the state religion, and even this minority shows a tendency to independence.

In the happy times when the English liberals had a voice and a serious influence in the political affairs of Great Britain, they cultivate the program of gradually freeing the churches from their corporate ties and putting their property to uses of education and charity, leaving intact the salaries of the clergymen in office, as was done in Ireland. The British laws may provide changes for the future but they respect the present with jealous care.

The Rosebery ministry proposed a bill in 1894-5 for the dissolution of the corporation of the church in Wales, assigning its income, after the death of the incumbents, to high aims of education, charity and religion. The law, in spite of formidable opposition by the Church of England, received a majority of forty-four votes on its second reading, but before the third reading the Rosebery cabinet was defeated, apparently upon a budget question but in reality for religious reasons! However, good ideas do not die, and recently a motion was presented to the House of Commons by Mr. Jones, intended to abolish the established church in Wales as a state institution. The great majority of the people do not adhere to it (as demonstrated by Mr. Asquith) and the church itself is a foreign importation imposed upon a reluctant people.

The non-conformists, effective communicants of other churches, numbered 460,000, while the adherents of the established church barely reached 160,000. Mr. Ritchie, a member of the Cabinet, expressed its opposition in the name of the government, asserting that public opinion

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assertions were correct it would simply mean that both Catholics and Protestants were to be blamed.

We are witnessing now in France the appearance of a new literature intended to justify and almost to absolve the bloody persecutions against the Huguenots, who are accused of having requested the aid of the English, then occupying Le Havre and Dieppe with their aid. Certainly there was a mixture of religious and political aims which aided one another on occasion. But there is no historical research that can justify the massacre of St. Bartholomew's Eve! Charles Merki's book *L'Amiral de Coligny* (Paris, Plon, 1909) is written in this sense, decidedly hostile to the Protestants and favorable to religious unity in France. Paul Wappie, a Protestant, also published new documents on the intolerance of Luther and his followers.

[1] March, 1902.

in Wales was favorable to the established church and that if it were dissolved in that part of Great Britain the question would also arise for England, because the Church of England and the diocese of Wales are inextricably bound together. Of course this is the usual bugbear that is brought forward in all such discussions! Sir William Harcourt recalled that the opposition, that is to say the liberal party, held, against the idea of the conservative party, that the church of the minority must not be dominant, either juridically or economically. He should have said, to be more precise, that no church, whether it represents a minority or a majority, ought to impose itself upon the others.

In the division that followed the debate the opponents were 218, and 177 members were favorable; which means that part of the supporters of the government voted for the abolition of the established church in Wales.[2]

The impartial observer must recognize that the constitutional question has gone backward since 1895. The partisans of separation of church and state have lost ground in Great Britain.[3]

The fact is that everything is connected and bound together in the constitutional policy of a great country, and there is always a certain logic in progress and in reaction. An aggressive and proud imperialism cannot give up the dominance of its church, even if it represents a minority.

The select minorities, those destined to govern through a kind of divine grace, are made to dominate the multitude, and therefore also the gods! And it must be noticed that the religious and mystic spirit of Wales demands the disestablishment through a transport of faith, as if to compensate its positive and almost ruthless character in the conduct of business affairs. The Welsh are asking for freedom to worship God with more enthusiasm for the creed of their forebears, because the faith which prays desires—in its ardent desire of sincerity—to be also the faith which pays.

But the present times are not tuned to spiritual and angelical thoughts, and force rather than mystic purity is the dominant factor in everything. What is taking place in England is also happening in many other places!

The sublime idea of religious freedom in customs and laws—in customs especially—is nearly everywhere on the wane, as we shall demonstrate some other time, explaining the constitutional and moral reasons for the situation.

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[2] The disestablishment came in 1920, as I mention in another chapter.

[3] Still the necessity of freeing also the Church of England from the golden chain of the state was understood at all times by chosen spirits belonging to that creed, Macaulay, Gladstone (in his maturity), and others. I am giving in Appendix XII a brief notice of an episode which took place toward the middle of the last century, as a proof of the harmful effects which may accrue to a state when it intervenes in theological questions.

WHILE THE HEALTHY MYSTICISM OF ST. FRANCIS REVIVES, THE PHANTOMS OF SPIRITUALISM DISPERSE AND DISSOLVE

CONSOLING ILLUSIONS OF A SPIRITUALISTIC FATHER [1]

WE send our fervid greeting to our excellent colleagues, Arnaldo Vassalo, for whose culture and talent we feel unbounded admiration.

We are not wishing for him to-night an easy and worldly glory; since his talent, educated in the school of Mazzini, is nowadays never satisfied if truth does not illumine it.

Therefore even those who dissent from him admire him in this new evolution of his mind, which restlessly seeks the truth among the mysteries beyond the grave.

However, you have no lack of censors, and you, friend Vassalo, who have so happily exercised the office of critic, surely must not be surprised by this fact.

I hear it said around me: This Vassalo, this fine humorist who has for years fascinated the Italian public with his biting satire and his scintillating wit, is it possible that he is now fallen a prey to the spiritualistic theory? In our Press Association we have no lack of skeptical and positive minds and amiable critics, and you must expect strong opposition to your spiritualistic belief. The theme which you are treating has both a religious and a scientific aspect. By the latter the fancy and deceits of the mediums must give way to facts, and reality must be made to appear evident. Science ignores the hidden essence of things, but it leads the accord on the reality of facts and illustrates the forces from the energy that measures them.

When these phenomena of spiritualism will pass from the gatherings of fanatics, from the mystery and the shadows of drawing-rooms, to scientific laboratories, they will be made subject to exhaustive inquiry, like those of hypnotism, to which they are in a way related. They will become topics for sure and methodical observation, like the researches upon the nervous system, electricity and psycho-physics. And, to give an instance, we shall know with certainty if the so-called materialized spirits evoked by the medium can be photographed, if it can be proved that we have two distinct personalities, if it is true that the medium loses the weight gained by the materialized spirits and when these disappear the medium gets back the lost weight.

When all this is done there remains the philosophical-religious aspect of the strange theme!

I never had the great misfortune which has befallen you of losing a son. I felt and suffered for you when, in the experiment described in your book, your adored son Naldino rises before you and gives you back for an instant the ineffable consolation of kisses and caresses that your heart longed for. To see again the angelic countenance, to hear again the well-known voice . . . what a tragic happiness! While reading your book the lines of the poet, lost in a glorious chorus of shades, came back to my mind:

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[1] This address was delivered by Signor Luzzatti in 1902 at the Press Association meeting, over which he presided at the time.

Io vidi una di lor trærsi avante
Per abbracciarmi con sì grande affetto
Che mosse me a far lo somigliante.
O ombre vane, fuor che nell'aspetto!
Tre volte dietro a lei le mani avvinsi,
E tante mi tornai con esse al petto.[2]

Perhaps—and I ask you to forgive my frank doubt—an hypnotic current released from the "medium," the expectation and the hope, the very solemnness of the place, raised your soul to sublime heights, and in an exaltation of paternal love it seemed to you that you were seeing the beloved image which is always before you in the normal conditions of your life, and even in those which ought to be happy moments spreads a veil of melancholy over your countenance.

Now there comes to my mind the story of the two Americans who were copying with their pencils the marvelous feats of a Hindu fakir in a public square, while a third observer photographed them with a hidden camera. The fakir throws up a rope which hooks itself in the air; a youth springs out from the earth and climbs over the rope, hangs to it, and the fakir goes after him on the rope. A struggle takes place up in the air, then the fakir throws the young man inanimate on the ground, revives him, and then disappears in the crowd. The American artists had faithfully drawn all these miraculous events while they were happening, and they found their drawings alike when compared; but the photographic camera had reproduced only the fakir, without rope and without any revived youth. Only the camera had not been hypnotized! It had resisted the spell in its objective infallibility.

But when I tell you that, I have no need to remind you that I am not skeptical. You know that I recognize, as you do, the mystic and harmonious correspondence between heaven and earth, and that my faith in God increases every day, while I am losing every day my faith in statesmen and politicians. How many times I repeat with Hamlet: "There are more things in heaven and earth, Horatio, than are dreamed of in your philosophy!"

Oh, how much better our life would be if it went on under the vigilant escort of our dear dead, if the pious joy of seeing them again from time to time upon this earth, according to our merit, were the pious legacy left us at the moment of their death!

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[2] One from among them saw I coming forward,
As to embrace me, with such great affection
That it incited me to do the like.
O empty shadows, save in aspect only!
Three times behind it did I clasp my hands
And oft returned with them to my own breast.
(Dante, *The Divine Comedy*, *Purgatorio*, II, 76; Longfellow's translation.)

Theosophy also asserts this possibility with lofty ideas and other forms.

Persuade us, dear friend, and, be it reality or illusion, make us revive with those who, when they died, robbed us of more than half of our soul! Were they "empty shadows, save in aspect only," that will not diminish our gratitude to you.

It has been noted that in the periods of history in which magic, hypnotism and mesmerism acquire new power the ancient creeds appear decrepit and the new cults are not yet born, as if the mind of men cannot live without supernatural beliefs. This was seen in Rome when pagan creeds were disappearing and the dawn of the Christian spirit had not yet risen.

Is it possible that all the modern stirring and fussing about these new manifestations of spiritualism indicate a palingenesis of faith?

Let us dare and let us hope!

And now speak to us, dear friend, and lead us to the inner arcana of things. We shall follow you with anxious solicitude, because mystery attracts us with the seduction and the vertigo of the abyss.

Speak to us and enlighten us, even if only with a weak ray of intellectual light, through the dark depths of life and death!

AN EPILOGUE OF RELIGIOUS FREEDOM, WITH PARTICULAR REFERENCE TO ANCIENT GREECE [1]

RELIGIOUS freedom is perhaps as ancient as persecution. From the day when the thought arose, in the rude elaboration of the first communities, of a mysterious being to whom men must render an account of their acts, perhaps in the same moment there were in the same communities those who felt other beliefs in their souls or who denied all beliefs. And then, as indistinct as all that happens in the primeval forms of humanity, began that dissension and that conflict which will perhaps cease only with the end or with the transformation of mankind.

For what concerns the history of constitutional law we have before us a new and diligent study to undertake with reference to this tenuous thread of religious freedom and of philosophical freedom—both of which are correlated—through the vicissitudes of history. The trace thereof is sometimes lost, but then it is found again, like those streams which hide in the lakes and then reappear stronger and more impetuous.

Since persecution is of all times, the idea of a protest which has provoked the persecution must also be of all times. The tendency of some men to deny the established creeds, to seek liberation in other faiths or in philosophical denials, must have existed since the earliest times, and from that arises the possibility of finding in the negation of the established creed the lost thread of this idea of religious freedom and then of philosophical freedom.

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[1] Summary of a lecture delivered at the University of Rome.

Let us consider its first origins as far back as we can go in our historical knowledge. We find it in ancient Greece, and we also find it in ancient India. In 399 B.C. Athens sentenced Socrates to death because he had offended the gods of the country. And Plato, Socrates' great disciple, excludes in the *Republic* and in the *Laws* even the hypothesis of citizens who do not adhere to the religion of the state. In his respect for these gods—but not in his idea of persecution—he was in agreement with his teacher, who had rendered constant homage to the gods of Athens in his defense. Then Plato continues, saying that "even when the citizens abstain from all forms of propaganda they are harmful by their example." And in the tenth book of the *Laws*, in which he speaks of the offenses against the gods, he establishes terrible penalties for the sacrilegious. In his splendid translation of Plato's works Victor Cousin makes the following statement:

> The penal code of Plato's laws is founded upon his theories, and the penalties are founded upon religion. Plato develops the following thesis: We must believe in the existence of the gods, acknowledge their continuous interference in the affairs of mortals, and admit the attitude of inducing them to mercy with sacrifices and ceremonies. Those who do not believe are impious; they must be asked to recant; otherwise they must be denounced to the magistrate, who in his turn becomes impious if he neglects his duty. The penalty depends on the temperament of the unbeliever. There are men who do not acknowledge the gods but who, possessing a just temperament, detest the wicked, are incapable of criminal actions, keep away from evil company and associate themselves with just men.

We are here confronted with one of the great problems of philosophy, because all the centuries, before freedom of conscience was admitted, denied that there could be morality without divinity and divinity without morality. Therefore those men who did not believe in the dominating faith were not honest. This syllogism was the cause of infinite suffering and bloodshed. But Plato separates theodicy from morality, and admits that there may be men who, without worshiping the gods of the fatherland, are honest by temperament.

> But other individuals add to the persuasion that the universe is widowed of gods, ardent passions which they do not know how to moderate, an excellent memory, and great keenness of mind, and these are most harmful, because with their courage and their ardor they devote themselves to the propagation of their favorite ideas and harm the commonwealth more than those who lead solitary lives.

Plato continues in this analysis worthy of the Inquisition, since he searches for the idea of God in the root of human conscience, and grades the personal responsibility in proportion as it reaches propaganda, grading also the penalties, just like the Roman and Spanish inquisitors who probed the depths of the soul, seeking the grade of the penalty in the effect of propaganda, which the Middle Ages called "negation associated with scandal"!

Still, Plato was one of the rarest minds that have adorned humanity, and he, together with Spinoza, Kant and a few other great ones, seems to have had the mission of demonstrating the maximum degree of the intellectual power of man. But he, who witnessed the first and most tragic act of intolerance in the city of Athens, the execution of his venerated teacher, should have derived from this example the ideal of liberty even in religious matters.

What great difficulty must be encountered by mediocre and common minds in seeing clearly and rightly into these matters, if stronger intellects, when witnessing the spectacle of the effects of persecution, which had proved its iniquity in one of the greatest men who adorned Greece and the world, cannot restrain themselves in framing other social systems and other legislation!

Socrates' example did not remain solitary in Greece. Another philosopher, Protagoras, is compelled to flee and dies in shipwreck, while his book, judged impious, is burned by order of the magistrates. This is an example of inquisition upon conscience and upon writings. A third philosopher, Anaxagoras, would have come to the same end as Socrates, if he had not sought safety in flight, a thing which Socrates refused to do, in order to remain until his death submissive to the laws of his country. Isidore and Dionysius of Apollonia were persecuted in Athens, the freest city of the world, because they denied God, while from distant India there issued a doctrine announcing freedom of conscience and of religion, a doctrine new and stupendous in all its implications, and one which had its roots in the deepest and most secret aspirations of the human soul. So that Greece, because of her philosophical nature and because she had been the first nation to direct human thought to the free investigation of the highest problems, was full of men who denied the gods of the fatherland and who claimed the right to believe, or not to believe, as their conscience dictated, provoking the reaction of the law against the rationalists, the protestants of that time, and the necessity of such researches from the constitutional point of view has become so evident in our day. The research into intolerance in ancient Greece and ancient Rome has, one might say, been exhausted in the last two decades. But the greatest part of the history of freedom still remains, and we mean by that the development of the religious idea since the time when men began to worship a divine being or an idol or many idols, the time when they began to admit something outside themselves to which they must render account of their actions, down to Constantine's edict. Gaston Boissier calls this edict "the beginning of religious tolerance, officially proclaimed by an emperor." "It is the first time," he says, "that the world heard such a discourse."

Now all the protests, all the reactions against injustice in antiquity, prove that it was not the first time that the world heard such a discourse.

And is it true that a proclamation of this kind occurred for the first time? Gaston Boissier has recognized with us that this declaration of his was erroneous, after receiving notice of what we had the good fortune to find in the stories about an ancient Hindu Brahmin king, converted afterwards to Buddhism, who was first a cruel tyrant and became afterwards a saint. What I say here is admirably proved from the philological and historical point of view in some English and French works. But not even that could have been the first edict, because the idea of religious freedom must be contemporaneous with persecution. Evidently the first dissenters who arose under any sky must have thought of the problem of religious freedom, and since in these forces of action and reaction of faith against protest and of protest against faith, human conscience begins to grow—which would never have happened if it had remained petrified in the worship of a single idol—we have perhaps in the conflict of these forces of action and reaction the origin of human knowledge and science, more than in other movements and conflicts. As an instance of this the socialist idea, according to which humanity is the effect of many forces in conflict and a continuous struggle between those who have and those who have not, is true in so far as it may be affirmed that one of the elements of history is the action of such influences in conflict among themselves, and history had to be corrected when it denied these actions. But this idea is less important than the effects derived from two other factors in conflict: religious intolerance, which chains humanity to the ancient god, and the protest which seeks a new faith. In this conflict, in the investigation of this religious and philosophical truth, we have the development of all human knowledge. I might even say that the history of humanity is the result of the conflict of two great factors: the old and the new ideal, the faith that refuses to lose its sway over the others, and those which rise against it, and the economic conflict, of secondary importance, between the poor and the rich. The entire history of humanity integrates the material with the ideal factor; the various epochs have given their impulse, and have exercised their influence upon the destinies of history, which is the logical process of those two great elements considered together. In fact, the great historical movements, the greatest revolutions, are either religious or economic, and they derive their *raison d'être* either from heaven or from the impulse of human interests. Between these two things are all the rest, which otherwise can have no possible explanation.

Therefore, although theological hatred is the most perverse of all hatreds, and humanity never appears so wretched as when it derives persecution from a divine source, we have left in our spirit this consoling fact, substantiated by sincere research, that even in the most terrible moments of history, when the idea of God counseled the most nefarious crimes, this same idea has at the same time inspired the most sublime virtues, leading to the conception of a more intimate brotherhood of man to man.

God in History[1]

The Third Congress of the History of Religions was recently held in Oxford. The first took place in Paris in 1900 and founded the organization under the auspices of Professor Albert Réville; the second was held in Basle and was presided over by the distinguished theologian Conrad C. von Orelli; the third was under the auspices of Oxford University, to which the science of the history of religions owes the immortal work *The Sacred Books of the East*, a translation of and a commentary on all the Asiatic creeds.

In Paris the students of the history of different beliefs were accorded the hospitality of the "Museum of Religions" founded by Guimet. The latter was one of those merchants and travelers who—like the Italians of the Middle Ages, who roamed the world—brought back, besides profitable commercial connections, the notion of unknown deities. At Oxford all the religious soul of Asia was transferred to the glorious seat of that ancient university.

The proceedings of these congresses have a character which is essentially and serenely one of research. They exclude all professional and dogmatic controversies; and in them God, perhaps for the first time, pacifies and does not divide His worshipers. Religions are considered as a spontaneous product of the natural history of humanity, in continuous evolution in their dogmas, their moral ideas and their exterior forms. Here is a patient study, fiber by fiber, like the study of a family of flowers, for religions are the most spontaneous and simplest flowers of human souls.

The comparison of religions and of the forms of worship in which they are embodied issues from the profound examination of their specific environments, and the various gods travel safely through the paths of history.

The investigation ramified into eight parts, divided as follows:

> The religions of inferior cultures, including those of Mexico and Peru; the religions of China and Japan; the religion of the Egyptians; the religions of the Semitic peoples; the religions of India and of Iran; the religions of the Greeks and the Romans; the religions of the Germans, the Celts and the Slavs; the Christian religion.

Several of these creeds are only a matter of history, being nowhere professed in our day; but the Christian religion, Buddhism, the other creeds of Japan and India, Islam and Judaism are still flourishing.

Why is it that these creeds seem perennial, immortal, and the others have disappeared? And all that history does not know about both the dead and the living creeds, is it not more than what it knows? Do we not see the great German, English and French studies on the origins and the vicissitudes of religion offer every day new discoveries and topics that explain legends and upset ancient stories? Neumann's publications about Buddhism—are they not giving a new physiognomy to Buddha and the great religious philosophy that he created? The forty-odd volumes published in Oxford and containing the translation of the Sacred Books of the East—have they not the same importance as the works of Darwin and his successors for the history of the origin of species? And what shall we say about the inexhaustible research on the origin of Christianity and the evolution of the dogmas in the first centuries of the Church, from Bruno Bauer, the initiator of the Tübingen School, to Harnack?

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[1] January 1, 1908.

Some of these articles were published in the *Corriere della Sera*, others in the *Nuova Antologia*.

It is not possible to imagine a purer and more attractive convention than the gathering of so many scholars who came from all parts of the world to pursue in harmony the study of religious facts, which make up such a great part of the history of nations and of humankind.

The number of scholars occupied in this research increases every day. At the Basle Congress of 1904 there were 322 historians of religions; in Oxford the learned company was increased in number, because Great Britain alone has hundreds of these students scattered in all parts of the vast British Empire, where the sun of religious freedom never sets. The promoters alone of the Oxford Congress, nearly all of them bearing names famous for deep research (from Caird to Ramsay, and from Cheyne to Lyall) number more than fifty.

This fervor in religious study is in contrast to the doctrine of historical materialism, which appears to be the only one dominating in our day. It shows that there is a current of ideal forces, invisible and inextinguishable, above the current of material interests which seems to carry everything away in its impetuous course; and these ideal forces exercise their salutary influence, curb the appetite for material reward, and compose, in different proportion according to the character of the age, the real history of humanity, which has never lived by bread alone but has always also been fed with mystic aspirations, and has perpetually felt the gentle yoke of an imperative morality, coloring the sad realities of life with the supreme joys of idealism. The deeper we fathom these vicissitudes, the more we see the religious entity issue from all that is most intimate, sincere, and pure, in contrast to those superficial doctrines of the last years of the eighteenth century which associated religion with ignorance, with fear, and with superstition, and according to which mortals always appear to be the victims of the lies, the covetousness and the tyranny of the priestly caste. The origins of all religions are made up of sublime purity, and cannot be confused with the impostors and the knaves who adulterated them. Surely men have drawn the highest inspiration from heaven, and alas! also the cruellest incitement; they have derived from heaven both martyrdom and persecution, all that is most tragically great and most vilely low! But the historical research of the nineteenth century, continued in the twentieth, has given back to religions their natural and essential task, and just as it destroys the legend of abject superstitions it has contributed to the destruction of the legends, no less fallacious, of sterile negations and of a suspicious rationalism which sees everywhere blind souls deceived by wicked and avaricious churchmen.

The gathering of so many scholars and divines at Oxford, aiming to search into the origins of the Deity, teaches modesty and mutual indulgence to believers, freedom of faith being the last word to issue from the history and philosophy of religions. In the great hall at Oxford where the various delegates met, there should have been engraved these golden sentences [2] of the Hindu king Asoka, inspired in him by Buddha, whose faithful disciple he had become:

> King Piyadassi, dear to the gods, honors all other religions. . . . We must not extol our own religion by discrediting the others, nor despise them without a legitimate reason; on the contrary, we must on all occasions render to other beliefs the honor which is due them. Those who extol their own creed and cast aspersion upon the other faiths do it certainly in order to obey their own, with the purpose of bringing it to the fore. But acting thus they harm it greatly. Only concord is good, because through it, all love to know and communicate to one another their religious ideas. The desire of the king, dear to the gods, is that all beliefs that profess a pure doctrine be brought to light.

Thus they spoke in India two hundred and fifty years before Christ, and these sublime sentences expressed in the councils summoned by the great king represent the true and legitimate precursors of the congresses on the history of religions held in our day.

What does it matter to humanity, immortal because of its divine origin, that these ineffable discourses are resumed millenniums later? History is as patient as nature. Freedom and sincerity in research on faith, freedom and sincerity in the practice of the faith; these are the precepts of the old Hindu wisdom in which the eternal youth of human goodness sends forth its vivid flashes of light.

RELIGIOUS FREEDOM IN WALES [1]

I HAVE been informed these days that the liberal cabinet which is now governing Great Britain will shortly present to Parliament a bill, by the provisions of which all the religious corporations of Wales would be freed from all governmental control. The privileged Anglican church would be disestablished and the administration of its property entrusted to a committee. The income of this property would be devoted to work of education, hygiene, and charity, after sufficient provisions had been made for the stipends of the present incumbents during their natural life.

The king will no longer be the head of the church in Wales, and the bishops of the four dioceses of that country will no longer be entitled to a seat in the House of Lords. The church will become free and it will govern itself.

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[2] They are commented upon in other chapters of this volume.

[1] In the year 1909.

It is not difficult to foresee strong opposition to this measure, especially from the established church, which will find strong support in Parliament, especially in the House of Lords.

Separation of church and state is gradually triumphing everywhere, and now the experiments in the colonies are added to that of Ireland.[2] The constitutional reform in Wales and in the British colonies is taking place under religious influence,[3] and the constitutional freedom inspired by faith calls to mind the liberal action of Congregationalism.

A French author, M. Saint-André de Lignereux, writing about religious freedom in the United States [4] enumerates twenty-eight principal religions divided into 167 sects professed in the United States. The population of the United States (census of 1904) is 80,590,000 inhabitants, and the number of church members indicated by Dr. H. K. Carroll hardly reaches 30,313,311. The remaining fifty millions are not enrolled in any church; or they follow a religion without being enrolled in it.[5]

After 1900, the year in which I expressed the hope that the anachronism of an established church not corresponding to the religious convictions of the majority of the Welsh population would be abolished in Wales, disestablishment was finally enacted in that country. Since March 31, 1920, the church in Wales (that is to say the Anglican Episcopal) is no longer the state church. The Welsh Church Act of 1914 had already given to the bishops, to the clergy and to the lay members of the Church of Wales, the right to hold synods, to elect representatives, and also to prepare constitutions and by-laws for the general administration and the good government of the church. After that the Cardiff convention of 1917 authorized the election of the new supreme legislative body (which is the government body) by the diocesan conference.

This body consists of three orders: the bishops, the clergy, and the laity. It has 425 members, that is to say: the archbishop, four diocesan bishops and a suffragan, four deacons, ten archdeacons, twenty-five representatives of the clergy and fifty lay representatives elected every three years by each one of the three diocesan conferences, ten members of the clergy and twenty laymen appointed by the governing body. The archbishop is the president ex-officio. The powers of the governing body are very wide but they cannot go beyond certain limits, because this same body has accepted the articles, the declarations of doctrine, the rites, the ceremonies, and the formulas of the Anglican church.

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[2] See Karl Rothenbuecher, *Die Trennung von Staat und Kirche,* München, Oskar Beck, 1908.

[3] See Potter, *The Strife for Religious Liberty* (Cranleigh, Surrey, Samurai Press, 1908).

[4] *L'Amérique au XXme siècle,* I. Taillaudier, ed.

[5] At the present time (1925) the population of the United States reaches 118 million. Seventy-nine million (sixty million according to other calculations) are Protestant, eighteen to twenty million Catholics, and about three and a half million Jews. The rest make no profession of faith.

Next to the governing body we have now the legislative body, which also has statutory obligations. It consists of ninety-five members (the archbishop, four bishops ex-officio, four representatives of the clergy and eight laymen elected every three years by the diocesan conference, five members of the clergy, ten laymen elected by the whole body and ten members appointed by the archbishop and the bishops jointly). Its functions are purely administrative and financial.

The Archbishop of Wales, who has furnished me with these data, assures me that disestablishment has given liberty and elasticity to the church. It is true that the church was deprived of its endowments, but the old income was immediately given back to it, and the church may now administer this income with the same freedom as the churches supported by voluntary contributions.

The clergy of this Welsh Episcopal church looks forward to the future of its religious life with great confidence. And Frank Morgan's small pamphlet, in which its constitution is to be found, ends with the following words:

> The marvelous spirit shown by the great convention at Cardiff in 1917; the force which demonstrated the ability of the governing body to be equal to its task and to obtain the coöperation of good men; the harmony, if not unanimity, that prevailed in every meeting (due undoubtedly partly to the policy of treating all the dioceses in the same way, and partly to the sound principle of diocesan autonomy, subject to the control of the central body); and above all the firm and constant devotion and spirit of sacrifice of the clergy; are proofs that the history of the Church of Wales cannot yet be written, because it is enclosed in the future.

But all this has no significance for a minority of the Welsh people; the greater part of those Celtic mountaineers and fishermen belong to different non-Episcopalian free churches, that is to say to the Presbyterian church (known in Wales by the name of Calvinist-Methodist), to the Congregationalist church, the Baptist church and the Methodist Wesleyan church.

TURKISH SAVIORS OF ANCIENT EMBALMED CHRISTIAN SECTS [1]

WHETHER the Islamites were more tolerant than the Christians in their historical origins and in their political evolution, in Bagdad, in Spain, in India and in Constantinople, is a matter that I could not thoroughly examine, but one fact is certain and that is that there has never been an obligation imposed upon the subject peoples to be converted to Mohammedanism. The adherents of monotheistic religions and those who founded their faith upon sacred books (Jews, Christians, Sabians, etc.) were allowed to practice their creed freely, provided they paid a personal tribute, and they could be assured of the protection of the Islamite state, as was stated in Sura v. 120: "These, too, were precepts desired by God, and those who believed wrongly would one day render an account to God of their error."

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[1] 1909.

It was not the purpose of Islam to take possession of the souls of men, but it aimed only at external domination.

This habitual tolerance of principles was really widely applied by Islam in the conquered lands, as for example in India, where the ancient religions with their temples and cults could be preserved under Mohammedan rule. The same can be said for Greece and the countries of orthodox creed. And it may be added that every conversion to Mohammedanism created difficulties for the Moslem politicians, because every convert meant a loss to the state of his tribute for tolerance.

The relative Islamic fair treatment of other creeds corresponds, furthermore, to the indulgence toward the different Moslem sects, and Mohammed had uttered these words in regard to them: "The difference of opinions in my community is a sign of divine mercy." Indeed the proclamation and the acknowledgment of Islam were never made by means of dogmas, but have always required the *Idschmâ* (*consensus ecclesiæ*), that is to say the voice of the people which is the voice of God.

In these facts we find the explanation of the introduction of speculative elements in the development of the doctrine and the law of Islam, the canonical acknowledgment of the six collections of traditions as an authority of jurisprudence, the acknowledgment of four precepts represented by the different regions of Islam as forms of creeds equally orthodox, the tolerance of new conceptions and new rites at historical moments, justified in the life of Islam. All this is due to the directing virtue of the *Idschmâ* which interprets the consecration of new ideas. If something similar had existed in Christianity the orthodox and the reformers would have both remained in the bosom of the universal Catholic church.

Notwithstanding its universal character Islam has shown consideration for civil institutions, respecting the customs (*Adât*) of the various lands over which it spread.

The different usages and customs were made to prevail not only in civil law but also in criminal procedure, not excluding, however, the full theoretical acknowledgment of the canon law; and we find in the religious field certain forms of pre-Mohammedan practice still existing in many Islamic provinces. It can truly be said that if the followers of Mohammed have ruthlessly conducted wars of conquest and expansion, they have never shown that religious intolerance which took the form of the Inquisition and the *auto-da-fé*.

When the Moors conquered Spain they did not propose to convert the Christians, and they followed the same policy in the provinces of the Levant. In Persia, Parseeism continued for centuries after the fall of the Sassanids, and its slow death was due to causes inherent in itself.

In Lea's great work on the Spanish Inquisition this character of mildness and tolerance—always in so far as it was permitted by the doctrines and the habits of the times—is shown with manifest clearness.[2]

It is my opinion that the infiltration of Buddhistic doctrines in the Islamic people through Asia must have contributed to toleration, always, of course, practiced in a relative sense. The Turkoman, the Kirghiz, the Buriats and the other nomadic peoples of central Asia are prevailingly Buddhist, Christian or Mohammedan, depending on whether they inhabit the eastern region (toward Mongolia and Tibet), the northern region (toward Siberia), or the southern part of the continent (toward Persia and Afghanistan), where they are mostly Mohammedan. For the majority of these Asiatic peoples Buddhism, Christianity, and Islam are reduced to superstitious practices cultivated with their primitive beliefs as semi-savage peoples.

The first moral and civil religion from which they received the light of divine inspiration was Buddhism, which—as we know from reports of Chinese pilgrims—had spread in Turkestan (Khorassan, Khokand, etc.) to the whole of eastern Persia. Recent scientific researches of Russian travelers and of the Swedish explorer Sven Hedin led to the discovery of Buddhist writings in old Turkish and Syriac with Sanskrit glossary.[3]

In this prevalence of Buddhistic tendencies in Turkestan, in Media, in Syria and in Bactriana, we find the explanation of the Manichean movement in Christianity and the Sufi movement in Islam.[4]

Both Manicheism and Sufism represent for Christianity and for Islam what Essenism and Neo-Platonism were for Israel and for the Greek-Latin world; they have, that is to say, brought to the West the mystic and ascetic tendencies of India and of Buddhism.

The Turkish Seljuks who took Mahomet's throne after the Abbassides in 1050 A.D., placed under their protection that Sufism with its Buddhistic tendencies which afterwards found a powerful patron in the great Al-Ghazâli. These precedents and the tolerant character of the Turks explain the fact that the Great Sultan granted audience in his palace to the representatives of the principal creeds, with whom he freely discussed religious matters, thus anticipating the modern congresses of religion. The Arab caliphs, followers of the Sunna, would not have been capable of similar supreme fairness.

Turkey is the vast necropolis of Christian cults not united to the Roman church, and of creeds neither Christian nor Mohammedan, and she preserved them from the slaughter that would inevitably have taken place if a Christian power had prevailed in the Orient. That was because they were all equally fallacious in Turkish eyes, and Turkey tolerantly granted to all of them the same religious privileges and the same specific rights connected with those privileges.

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[2] Henry Charles Lea, *A History of the Inquisition in Spain,* in four volumes, New York, Macmillan, 1906. See especially Vol. I, pp. 35-77.

[3] A. Grünwedel, *Mythologie des Buddhismus in Tibet und in der Mongolei,* Leipzig, Brockhaus, 1900.

[4] For what concerns the infiltration of Buddhistic elements in Sufism, see *Die Orientalischen Religionen,* Leipzig, Teubner, 1906 (Vols. I-III of the encyclopædia, *Die Kultur der Gegenwart*).

Their creed became their civil and political bulwark, and for this reason they were saved from ruin. The *raïas* were grouped according to religion, and every recognized religious group became a community and constituted a nation, because often the difference of religion and ritual corresponded to a difference of race, and those who were not followers of the Koran lived in a state within the state.[5]

Thus were saved the Nestorians,[6] the Monophysites (comprising the Jacobites,[7] the Copts and the Armenian-Gregorians),[8] the Orthodox,[9] and the Protestants. Other Christian creeds, subject to Rome but practicing different rites, were also saved from destruction, as for example the Chaldeans, the United Syrians, the United Copts, the Armenian-Catholics, the group of the *Ex-Orthodox*, the *Maronites*, the *Latins*, the Catholic Ottoman subjects under the protection of Austria-Hungary. A few non-Christian and non-Mohammedan creeds also constitute autonomous communities; as the Israelites, the Nosairians,[10] the Ishmaelites, the Druses and the Yezidi.[11] Some of these sects number only a few thousands of adherents, but the necessity of being united, in order to enjoy the privileges of autonomy, has preserved their creed. If the domination of the schismatic Greeks had continued in that country, the latter would have destroyed by inquisition and persecution the greatest part of those sects, compelling their members to forced conversion.

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[5] Sultan Touloun, the Turkoman, feeling that his end was near, invited the *imams*, the Christian priests and the Jewish rabbis to bring their sacred books to the palace and pray for his soul. See the volume full of ingenious paradoxes and of acute observations by W. H. De Morfinay, *Paradoxes sur la Turquie*, Paris, *Société d'édition*.

[6] The Nestorians assert the existence of two separate personalities in Christ, so that the Virgin, considered only as the mother of the human person, could not be called the Mother of God. The fourth Ecumenical Council held at Ephesus in 431 A.D. condemned this heresy.

[7] According to the Jacobites Christ's two natures were reunited and made one personal nature of two impersonal ones, without mixing or confusion. According to them Jesus Christ is *of* two natures and not *in* two natures. This sect of metaphysicians of the divine natures numbers nearly 100,000 members in Turkey in our day.

[8] The Armenian-Gregorians do not believe in a single nature of Christ but in a unified nature, that is, the two natures are so united that they compose only one, as is the case with the body and the soul which together compose human nature.

[9] The Orthodox differ from the Catholic doctrine in the following points: the derivation from the Holy Ghost; baptism, which according to the Orthodox church must be made by triple immersion; the *azym* bread, as the Orthodox church requires the bread consecrated in eucharistic sacrament to be leavened. They differ besides in the words by means of which the transubstantiation is made during the mass, and the consecration of the species, in the communion under the two species; in the purgatory and the indulgences which the orthodox church does not admit, excluding besides a particular Judgment before a Universal Judgment. They differ in the belief in the Immaculate Conception of the Virgin and reject the supremacy of the Pope.

[10] The Nosairians are an Arab sect of Syria holding mixed tenets—pagan, Mohammedan and Christian.

[11] The Yezidi or Ezedi worship the stars, have a great respect for fire, and show other points of contact with the Sabians. They acknowledge two principles, one good and one evil, and they worship the latter by preference, considering that it is the only one that may be harmful. Being opposed to military service they won exemption from the Turkish government because the latter—when political reasons permit—respects the civil consequences of religious principles.

The miracle of their "embalming," which makes them still appear alive, is a result of the tolerance of the Turkish legislation which permits the autonomous existence of all those particular groups.

Those who are outside the dominant Mohammedan religion are left alone in Turkey with the double purpose of separating them from the true believers and making them pay a special tax to exempt them from military service. The religious freedom of those privileged bodies was recently pointed out by Count F. Van den Steen de Jehay in an interesting article, and before that was thoroughly examined and commented upon by George Young in his notable and fundamental work on the laws and ordinances governing the Ottoman Empire.[12]

A young writer who has published important and trustworthy results of his studies in the domain of public law [13] writes that "those who teach the history of religious freedom ought to remember that this freedom is maintained entire and perfect, as it has never been kept in Europe and in America, precisely in that Ottoman Empire which is still reputed to be the home of religious intolerance." And he addresses a mild reproach to me because, he says, "in various essays on religious freedom and in the lectures delivered at the University of Rome on the same subject in 1905-1906 there was not a word said about Moslem tolerance."

Now it cannot be denied that the Koran says nothing about putting to death those who were born and lived outside the precepts of the Mohammedan religion; and we did recall some parts of the Islamite's sacred book, corroborated by the comments of the *hadits* who prescribed religious tolerance to the Mohammedans.

Just as in the first centuries of the Christian church, paganism and Christianity existed side by side, so did the Arabian caliphs respect the unbelievers in the period nearer that in which Mohammed lived, and the persecutions began only after the crusades, in retaliation for the massacres caused by the crusaders.[14]

It also cannot be denied that Mahomet II did nothing but follow his predecessors' habitual policy of tolerance when he permitted the Christian inhabitants of Galata to continue using their churches and practice their cult. And when Suleiman the Magnificent and Selim II defended the Jews in the name of religious freedom against Paul IV, Charles IX of France, and the Republic of Venice, they caused the Turks to appear under a new aspect, threatening armed intervention in the name of religious freedom, a cause too sacred to be defended by Mohammedans without immediate political aims! And it is also true that the persecutions and the greediness of the European powers often provoked inevitable reactions to fight violence by violence.

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[12] George Young, *Corps de Droit Ottoman, Recueil des Codes, Lois, Règlements, Ordonnances et Actes les plus importants du Droit Intérieur et d'études sur le droit coutumier de l'Empire Ottoman,* Oxford, Clarendon Press, 1905.

[13] Angelo Sullam, *Un corso di diritto ottomano, parte I,* Torino, Fratelli Bocca, 1907.

[14] This is acknowledged by Matagrin in his *Histoire de la tolérance religieuse,* Paris, Fischbacher, 1905.

But when all this is said, it does not seem to me right to speak of a religious freedom in Turkey superior to that of other countries, even to that of the United States.

Religious freedom is the touchstone of all other constitutional liberties. All originate in it and end in it, and it represents the last word in civilization. The nations which can stand its glorious weight, those which can at the same time cultivate their own faith and respect the creed of others, show a state of mind enriched by all the virtues and all phases of culture. Religious consciousness moves and evolves under the influence of freedom. The creed is not simply accepted as a paternal inheritance, to be transmitted intact to one's descendants, but is expressed in ever-changing institutions, and represents a continuous elevation toward the ideal, and free competition in the practice of goodness.

This is the way in which religious freedom is understood in those countries which knew how to conquer it at the price of sacrifice and tragic sorrows, made joyful by divine grace.

How could all this be understood in Moslem countries, in which the unbeliever was always kept in a condition of moral and legal inferiority, where religion and nationality were confused, defending and preserving one another, and in which religion had all the exclusive jealousies and the susceptibilities of a vigilant and fierce patriotism?

It ought not to be permitted to speak of true, great religious freedom among these "necropolises of embalmed beliefs." All of this concerns the past. We do not despair of the political renascence of Turkey and of her new constitution, with which wider experience of religious freedom will necessarily have to be associated. Turkey will have to learn a lesson from Japan, since sincere respect for the beliefs of others will measure the fitness of the Ottomans for a régime of freedom.[15]

[I republish here what I wrote in 1909 on the subject, but to-day I am even less disposed to subscribe to the declarations of those who saw in Turkey the most tolerant country. The doubtful merits acquired in the past are veiled by the intolerance and the oppressions of the present time.

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[15] See A. Heidborn, *Droit public et administratif de l'Empire ottoman,* Livraison I, Vienne-Leipzig, Ed. Stern, 1908.

How can our kind critic require from us a hymn to religious freedom in Turkey, if everything is still divided between the Mohammedans and the other people who inhabit Turkey, if marriage among them is forbidden, as well as inheritance? All this may one day be transformed under a régime of political freedom, but change in customs is everywhere slow in such matters. No one who is not of the prevalent religion may testify in a court of justice against a Mohammedan. There is a real division between the "people of the Book" and the other unbelievers. By the "people of the Book" is meant the Jews, Christians and Sabians; the others are the Magi (followers of Zoroaster, etc.) and the polytheistic pagans. Among the "people of the Book" there are civil relations; a Jew may inherit property from a Christian, etc. But there is no possible succession between "a person of the Book" and an unbeliever (see pp. 84ff. of the work quoted above). All this may gradually disappear, as an effect of religious liberty and constitutional education.

The iniquitous massacre of the Armenians and the horrible slaughter of Smyrna (in which religious hatred was added to the political incentive) would be sufficient to place Turkey among those nations which have failed in civil virtue and disinterested tolerance.

Going back to the past, I must mention a name which my further research has revealed to me: Al Jâhiz. A freethinker, he was among the first of those who analyzed every aspect of religion in the light of the new discoveries of the ninth century. The purpose of his life was to inquire into the essence of all the religions which he diligently studied, beginning with Judaism and Christianity, and then thoroughly studying the creeds of India and the cult of Zoroaster.

According to him every person who acknowledges Allah as the Lord and Mohamet as his prophet is a true Moslem from whom it is not necessary to require further declarations of faith. And contrary to his coreligionists' ideas of a God with eyes, hands and feet, and a hope of paradise, Al-Jâhiz absolutely denied that God had any substance, and only asserted His essence. He furthermore declared that the divine decrees are laws of nature and he consequently considered God as a source of universal law, responsible for human actions only inasmuch as He is the giver of that law. He tried to broaden theology, so that everybody could remain in the pale of Islam. He was also the founder of a sect and for a time was considered one of the greatest thinkers. But finally reaction in favor of traditional theology rose against him, and his doctrine was soon buried and forgotten.]

FREEDOM OF CONSCIENCE AND SCIENCE IN CONNECTION WITH THE MODERN STATE [1]

THESE writings of mine, to which I devoted myself at different epochs of my life, all aim at the same ideal of liberating the human spirit—which lives and progresses by the education of moral and political liberty—from the undue compulsion of governments, from the impositions of radical or reactionary sects, and from the absolute rule of philosophic systems wishing to impose the doctrines which they were unable to demonstrate to the satisfaction of the people. I have declared open war on every form of religious or philosophical intolerance; humanity is seeking the truth, and in order to find it, it must use only the tools of spiritual freedom, which finds its essence in all forms and guarantees of constitutional freedom. Therefore there must be an unlimited right of scientific research and an unlimited right of religious development. These two faculties of our mind exclude every kind of subtle hypocrisy, and make sincerity the foundation of all research.

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[1] October 1, 1911.

This chapter was written for the German translation of the book by Luigi Luzzatti entitled *Libertà di coscienza e di scienza,* Milan, Fratelli Treves, 1909. The German translation is the work of the eminent philosopher Dr. J. Bluwstein, and was published in 1911 by Duncker and Humblot of Leipzig. A French translation had previously appeared in 1910, a Japanese translation subsequently. (Italian editor's note.)

Naturally the author of these writings, published at different times, who has been living for so many years amidst the conflicts of ideas and of politics, has his preferences for the solution of the formidable problems which torment our weary society.

When Darwinism was triumphant, when the prevalence of natural science over morals was everywhere preached, as far back as 1876—as can be seen from this volume—I defended *scientific spiritualism,* and I have never interrupted my action in that cause.

I have always believed with Pascal that the heart contains a wisdom ignored by the highest kind of science, and that human races may be better saved by character than by mere talent or genius. Therefore I have always fought with all my intellectual power against the doctrines of those who deny every kind of evolution in morals, as if morality were a plant dried up after the triumph of science.

The evolution of morals consists in the successive improvement of its applications. An admirable example of this is found in the Gospels. Every century understands them better, and tries to put into practice a new and more hidden aspect of the Sermon on the Mount. And the more humanity tries to elevate itself, the more it notices its inferiority in regard to the evangelical ideal and its powerlessness to reach its summit. The progress of goodness is evolved in the distance which exists between aspirations, ever more sublime, and the difficulty of realizing them.

But all this labor of centuries and of nations requires spiritual freedom and political freedom, both of which refine and uplift public and private customs.

The most degrading spectacle of modern societies is that of persistent religious intolerance, just because it signifies an organic inaptitude for a loyal controversy. Considered from this aspect the Russian pogroms against the Jews, tolerated by the Russian government if not at times even incited, *Judenhetze* in Austria, in Germany, and even in France at the time of the Dreyfus affair, the anticlerical manifestations, sorry privilege of the Latin nations, all attest the inability to examine with patient frankness all the necessarily different sides of political and social questions.

The clericals and anticlericals of Italy, France, Spain and Portugal believe themselves to be divided by unsurpassable barriers, while they are the children—generated without fraternal love—of the same moral deformity: intolerance.

Those who would fain burn alive again Giordano Bruno in Rome, or those who would again assail with irreverent violence the remains of a pontiff, are both united in the same perverse affinity, which instills an identical rage into minds so different.

The last step in constitutional progress, which even the freest nations could determine and effect only in the maturity of their political life, is that of political equality, the most difficult to understand and especially to apply. The measure of the different grades of religious iniquity in customs and laws, that is to say of the greater or lesser repugnance to believe in and carry out the freedom of the different creeds, is a new and troublesome penetration into the conscience of nations. When the mystery seems to be cleared the spark of hatred springs from the heart of the Old Adam, as happened recently in Great Britain.[2] To give an example, Great Britain proclaimed civil and political religious equality nearly a hundred years after France did so.

But in her national customs and in her political practice, England is more liberal than France, and a case like that of Dreyfus would be impossible there. It is true, however, that only French democracy would have known how to redeem itself from disgrace and infamy, for France possesses hidden forces of good in these cases, equal to those of evil, and sometimes of superior caliber.

This volume, treating of such lofty themes and translated into the German language, is now submitted to the judgment of that nation which is at the same time idealistic—when not prevented by politics—and positivistic, which passes from the essence of Christianity as interpreted by Harnack to the best and most fruitful applications of chemistry and to the great capabilities—often too sagaciously interested—of merchants and bankers.[3]

Another people, the Scotch, distinguished both in the cult of religious mysticism and the mercantile spirit of business, honored me with their assent to the ideas which I have expressed.

The Scotch embraced the religious genius of Calvin—most rigid, and submitting man's will to the irrevocable predestination of a divine sentence—and almost at the same time invented banks of issue in their modern form, in competition among themselves.

The history of the religious evolution of that people, as well as that of its economic evolution, is most admirable. By developing their moral and intellectual life, almost without noticing it—as happened with the ancient Greeks in the realm of art and with the Romans in that of law—they developed constitutional jurisprudence in its relation to religious organizations and the principles of political economy.

When I was preparing these studies the Scotch had not yet taken a new step forward in the long and arduous road of religious freedom. Scotland presents the greatest example of pure conscience, worried by religious restlessness, which solemnly deliberated in 1843 as to separating from the official church of the state, not on account of different belief or different liturgy but for the sole reason that the Church of Scotland was subject not only to state regulations but also to an irksome state vigilance. The founders of the Free Church of Scotland did not feel wholly sincere before their conscience and their God if they were not fully independent of Parliament, and of the passing ministers who succeeded one another in power. And in order to follow their aspirations they gave up the wealth, power and honors of the dominating church, establishing a new community free from any state interference.

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[2] We allude to the latest manifestations of anti-Semitism in Wales. But the disgrace of this was at once felt in England and a notable declaration of the London *Times* (September 4, 1911) excludes every anti-Semitic reaction even in Wales.

[3] See Appendix XIII on the present situation of the German churches, on the different tendencies of the German people and on the struggle between the partisans of secular and parochial schools.

This new community grew in the glory of good deeds, and freedom gave it also wealth, spontaneously accumulated and free from the stain of ancient violations. Then the common Christian ideal led to the fusion into a single church of the Free Church and the United Presbyterian, the latter having adopted and cultivated the most rigid principle of absolute independence. In such a way the lofty ideal of the liberation of the church from any form of state interference was consecrated anew, and on this solemn occasion some of the most exclusive doctrines of old Calvinism on predestination and grace, which went beyond St. Paul's profound thought, were somewhat tempered.

In our day, through a kind of spiritual miracle, it is the privileged dominant Church of Scotland which feels the desire to free itself from state subjection. That church, which in 1843 saw many of its adherents leave it with the sole purpose of seeking freedom of worship, held in May of this year several conferences of great moral value, in order to discuss with the representatives of the United Free Church of Scotland the ways and means by which it too may be freed from the tutelage and the protection of the state, thus following on the road of independence those precursors who sixty years ago were condemned as rebels!

One cannot read the minutes of those conferences without profound emotion, as they add a document of the greatest value to the golden book of religious freedom.[4]

It is easy to foresee that after the liberation of the Protestant church in Ireland in 1869, establishing free competition with the Catholic church, both churches having equal power, and after the liberation which will shortly take place of the incorporated privileged Church of Wales, the disestablishment of the Church of Scotland will be put into effect, after the spontaneous amalgamation with the United Free Church.[5]

This event will represent the most perfect evolution of pious souls, achieved in the second half of the nineteenth century and the beginning of the twentieth century; a spectacle ideally admirable among so many rude and ruthless achievements of economic positivism. Then the ultimate and most difficult liberation, that of the Anglican Church of England, will be due. We say the most difficult because its special privilege is part of the stubbornly kept political institutions of Great Britain.

The constitutional problem that arises from these circumstances—more difficult to solve in Protestant countries than in Catholic nations [6]—is that of finding the formula that may regulate religious freedom. The introduction to this volume treats the subject, I hope, with frankness and novelty of reasoning. I am not opposing nor wholly adopting Cavour's formula of "a free church in a free state," but in my introduction I show that it must be understood as "a free church in a sovereign state." Two sovereignties cannot be conceived of or understood in a single state; nor did the great Italian statesman suppose or admit them. We must not forget that every church possesses a material patrimony besides that which is invisible; it needs rules and regulations to administer and distribute this material patrimony, and for that reason it must make use of all the guarantees of the law. The deeper its base is set in the earth the more fervid is its faith. The modern state, if it understands its mission, has the obligation to afford the protection of public and civil law to all creeds, in such a way as to enhance its genius, its vocation and its belief, and this has been most strikingly performed in the great American republic.

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[4] The minutes are published in a pamphlet bearing this title: *Report on Conference with the Church of Scotland,* Edinburgh, May, 1911.

[5] See the chapters about Scotland in the first part of this volume and a brief note about the Church of Wales in one of the preceding chapters. My prediction of disestablishment in Scotland has come true.

[6] In Protestant countries the state was the defender of the new faith against the Vatican, and it is also the sovereign power over the church.

There are states which, after putting separation into effect, proceed in such a way that they seem to persecute—through involuntary or premeditated errors of public law—all the creeds, or some of them. This happened in France in 1905 and is taking place now in Portugal, in both countries against the Catholic faith.

On the other hand, the manner in which the churches were emancipated in the canton of Geneva affords the finest instance in Europe of the action of the state for the protection of religious freedom, a course of watchfulness over public order and public custom without diminishing or abdicating its sovereignty.

This must be the new and constant subject for research of the science of public law in the twentieth century, in which the people become every day more averse to the toleration of any kind of privilege, and will not permit subordination of the church to the state or of the state to the church.

With this hope I take leave of the students of religious problems in Germany who will do me the honor to read my book, translated into German by my distinguished friend, Dr. Bluwstein.

The German translator of this book, who knows me well, is acquainted with my work in various governmental positions which I have filled in Italy since 1869, and he knows that if I may have committed inevitable errors I have never used the authority of my office to stifle a scientific or religious idea differing from mine.

I do not resent nor deny the accusation of yielding too much to the seduction of other people's heresies, even if this accusation were justified by fact. Better a thousand times this apparent weakness, derived from continuous meditation, than to ascribe to one's self an infallibility in the ruling of men, while it is every day demonstrated by unexpected events and by the evolution of new ideas that we are all fallible. The wisdom of governments which arrogate to themselves omniscience in their ineffectual vanity finds that both the unexpected events and the evolution of new ideas go far beyond every measure and every definite assertion.

NOGI'S SUICIDE AND THE RELIGIOUS AND MORAL IDEAS OF JAPAN [1]

To die for one's country, to die for one's God, or for the courageous affirmation of philosophical principles, to die for science, that is to profit humanity, knowingly inoculating one's self with a serum which may kill the person making the experiment: all these sublime renunciations of life for an idea free from self-interest constitute the essence, the greatness, of this handful of dust lighted up by an immortal soul. No civilization can boast of monopoly or privilege in such magnanimous tragedies that glorify it, and admiration becomes universal after history has fulfilled its office of separating temporary passions from the ideas and sentiments that last perpetually.

The conflict between two civilizations, two moral and religious souls, as is now asserted anew by the memorable Japanese case, is manifested especially in the matter of suicide. The martyrs of religion, of philosophy, of patriotism, of science, defy death, but they do not inflict it upon themselves. General Nogi, seconded by his pious and faithful wife, has felt that he was fulfilling an act demanded by his faith and by patriotism, by putting an end to his days at the same moment that his emperor passed from the world.

Suicide, which in our view is harmful to society and is opposed to all divine and moral precepts, corresponds in Japan to the simplicity of duty, to the eternity of the spirit, which emancipates itself from base matter, flying to the glorious shadows which maintain the mystic relationship between heaven and earth.

The soul of Japan—to say nothing of Laonism and Taoism—is molded principally by two religions, Shintoism and Buddhism, which according to Asiatic usage, superior to ours on this point, approach each other and influence each other without exclusion or persecution. The idea of divinity is in that country a bond of union and of brotherhood, never a source of persecution and massacre. Shintoism is nothing but worship of nature accompanied by ancestor worship, the ancestors being transformed into domestic gods, protectors of *lares et penates* or, depending upon their greatness and righteousness, into gods of the fatherland. Japan is full of celestial seeds; heaven and earth blend together all living beings, extolling these perpetual creations and transformations.

A nobleman once saved a willow tree which one of his friends desired to cut down.

"Why destroy," he said, "this living being, which has a soul like ours and longs, as we do, for the beautiful springtime, the mild air and the sweet light?"

In its gratitude the spirit of the willow transformed itself into a beautiful maiden who became the bride of her savior. A few years later the priests wished to cut down the tree, for use in repairing a temple. The fairy threw herself at her husband's feet and said, "I must die, but our son will live," and she disappeared among the leaves of the doomed tree. When the willow fell it seemed so heavy that three hundred men could not move it. But the child touched it, and then the trunk went by itself on its way to the temple where the repentant priests consecrated it to the gods.

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[1] November, 1912.

To die is to be reborn under different forms; our body is nothing but a tool used for an end higher than our own interests; one lives for the emperor who came down from heaven to found the Shintoist creed, and one lives for one's relatives. The emperor and the family make up the fatherland of Japan, the most admirable country in the world.

When a Shintoist dies young through illness or suicide he says to his parents just before his death: "Forgive me if I go before you. I pity my father and mother, because they remain alive after I am dead, now that they are getting old. In your old age you would have wanted me. I might have given you something in exchange for what you have done for me. But this is a decree of heaven and I must abandon this life."

All this moral and religious fanaticism is not opposed by Buddhism, which also connects the cycle of human life with that of the world that surrounds it. Every Buddhist is dominated by Karma, which constitutes his individuality and the essence of his virtues and defects. The weight of this responsibility is delivered to the various existences into which it is continually transformed. A cruel man will be reincarnated into a tiger, the virtuous man into an angel, and perhaps, meditating like the Master, into a Buddha.

With this moral predisposition, with the Buddhist reincarnation and the Shintoist precepts, thanks to which the glorious dead are reborn as fighters for their country's defense, or protect the worthy sons of Japan, not simply as an historical memory but effectively, death loses all its terror. And it can be readily understood how not only General Nogi but a whole company of the great emperor's associates longed to join him in death,[2] to be reunited in that shadowy kingdom where they could still discuss past victories and the future of the country, where they could still help it whenever necessary by the perpetual contact of extinct virtues and the weakness of the living.

The incompatibility of the religious genius of Shintoism and Buddhism with Christianity appears evident here. The ancient Romans, who had become inspired by Socrates' doctrine, considered life as a post of combat which cannot be voluntarily abandoned; men are like watchful soldiers on the field of battle. But there is no lack of exceptions to this theory: Lucretia, Cato, Marcus Brutus, Trasea. . . .

To St. Augustine's Christian soul the idea was repugnant that Lucretia, so celebrated (*illa sic predicata Lucretia*), innocent and chaste, had put an end to her own life. If she was guilty of adultery, why was she so praised? And if she was chaste, why did she kill herself? (*Si adulterata, cur laudata? Si pudica, cur occisa?*)

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[2] It has been said that all the generals wished to die with their emperor; then they decided to draw lots and Nogi drew the fatal, or fortunate, number.

Dante reproaches Pier delle Vigne, who was innocent of all guilt, for having committed suicide. Like all those guilty of self-destruction, he is condemned to have his soul perpetually tormented by harpies and separated from the body, but he extols Cato, whom Virgil presents with these beautiful words:

> *Libertà va cercando, ch'è si cara,*
> *Come sa chi per lei vita rifiuta*
> *Tu 'l sai, chè non ti fu per lei amara*
> *In Utica la morte, ove lasciasti*
> *La vesta ch'al gran dì sarà sì chiara.*[3]

Dante condemns Pier delle Vigne, the Catholic self-destroyer, and almost absolves the pagan Cato. But is it not true that a people of premeditated philosophical suicides may be more courageous than a people among whom respect for one's life is prescribed by religion? What greater courage has existed than that of the Christian martyrs or of the Gueux of Flanders? Who has taken more eager and high-thinking care of inviolable spiritual liberty? A man who is great because of his virtues and his talent meets death with resignation; he may even prefer it to life, but he does not desert this earth of sorrows, he does not shorten the period of trial which has been assigned to him in the world. But the Chinese and the Japanese do not acknowledge the duty of living, and consider it cowardly to remain in this world when honor or the God of fate advises them to shorten their mortal journey.

The oriental doctrine leads to fanatical superstitions, to horrible torture, to voluntary death under the juggernaut, but it also rises sublime in General Nogi's sacrifice. The Western doctrine may appear, or be, at times a compromise with excessive attachment to life, but it is redeemed and exalted by the continuous and admirable examples of those who die martyrs of their faith, of philosophical belief, of science and of country. And after all, statistics note the growing, rhythmic character of suicides in Europe, as if indeed they were a prescription of fatal numbers, in contempt of religions, and which often are only indications of a weak and cowardly spirit.

Although even in this case I find no cause of regret, not to lower the West in the face of the Orient, I cannot help admiring General Nogi's act, which is the logical consequence of moral doctrines and religious influence which have created new forms of heroism, different from ours. And these doctrines and religious influences may even sound as a reproach to those who inhabit Western countries, who make the greatness of men and of nations depend on historical materialism and the exclusive attention to material riches.

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[3] He seeketh Liberty, which is so dear,
As knoweth he who life for her refuses.
Thou know'st it; since, for her, to thee not bitter
Was death in Utica, where thou didst leave
The vesture, that will shine so, the great day.
(Dante, *The Divine Comedy, Purgatory I*, 71f. Longfellow's translation.)

Oh, were it possible to have another Aristotle who could find a way to unite the better qualities of the East and the West! What a miraculous treasure of new virtues would be discovered! But this hope is vain, or of infinitely distant possible realization.

OUR FELINE HUMAN NATURE [1]

THE more history evolves the better one may note the profundity of the evangelical exhortation of loving our neighbor like ourselves. This exhortation might appear superfluous, but it is most difficult to follow it. To love those who are distant from us is an easy thing; what is more difficult and troublesome is to love our neighbor when coexistence and ambitions become complicated.

What is happening now in the Balkans, where brothers kill brothers and each one of those nations turns secretly to an agreement with Turkey, interprets in a tragic way that Biblical revelation. Italy was doing the same thing when she was divided, lacerated, and without the consciousness of her unity, in the accursed times when the factions, powerless to destroy each other, invoked foreign help. But to see, after so much light of civilization, the Bulgarians, the Serbs, the Greeks, the Roumanians (first taking the part of simple spectators and now turning to invasion in the terrible and fruitful moment of gathering the spoils), making this horrible spectacle of themselves and causing us almost to desire Turkey back, after liberating Europe from its presence with heroic deeds—this is what we never imagined could happen, and still is happening! Affinity of race, affinity of religion, age-old Moslem oppression, nothing availed to let the feline human nature lie dormant, at least for some time, until victory was consolidated. But can we really wonder at it?

The guillotine worked more furiously in Paris and in other French cities when foreign armies were invading the soil of France.

An analysis of this hidden state of mind would require an entire book and would contribute to destroying, or at least to diminishing, certain lying boasts of our civilization.

The empire of man over nature, the continuous rejuvenation of the earth, have made admirable progress, but the empire of man over himself, the domination of his wicked passions, does not keep pace with material progress. Often civilization slackens the action of those moral and religious curbs which dealt with a man more uncultured but less greedy, more wild and crude but less exacting.

Briefly, it is very difficult to answer this formidable question, whether goodness has kept pace with our material advance in civilization.

When one thinks that, according to the Socialists, social peace ought to result from the economic factor alone, one would feel like smiling at such colossal simplicity of mind if the subject were not so melancholy. Once the "bourgeoisie" were destroyed, the "comrades" would start trying to destroy each other, those "comrades" who never endeavor in their conflicts to draw near to that love for one's neighbor of which the sacred books speak; and certainly they show every day more that they love him infinitely less than themselves.

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[1] July 14, 1913.

The "brothers" of the Balkans do not stop at civil war, when they are animated by the purpose of establishing the supremacy of one over the other, and they do that under the sneers of their common enemy, the Turk. The "brother" workers would destroy each other in certain advanced countries if it were not for the curb of the modern state which every day more—and this is the cause of its force—tends to place itself above labor and above capital, curbing the guilty greediness of both. Woe to those states in which capital or labor is allowed, through weakness or culpable indifference, to prevail one over the other!

The right of might that supports the might of right is still the hope that can have fewer disappointments!

To go back to the point whence our discourse started, if the European powers had represented this justice of nations in the Balkans, not with sermons or advice but with a threat of military action made with one accord, the Balkans would have been saved from the carnage and massacre which recall the barbarian invasions of the Roman empire; conditions still worse, if one is to believe the reciprocal accusations of the warring nations. But to accomplish this ideal act of relative kindness the six great powers ought not to have felt fermenting in themselves those very germs of infection which caused the fratricidal war of the Balkan peoples. Had they examined their own souls they would have found the same greedy desire for dominance, and so it became an act of prudence not to interfere too much in the struggle. The great nations which wanted peace in the Balkans, had they tried to support their desire with force, would have found that they could not keep peace among themselves. And from all that we derive the sad conclusion that our civilization is still very far from that human brotherhood of which everybody speaks but which only a few chosen ones, who have thus far little influence or no influence at all, have in the bottom of their hearts.

The international workingmen who say with too great arrogance, "We alone will save the world from war, we alone can bring universal peace," would begin, if given the power, by trying to destroy the bourgeoisie, and start—as a necessary if not a desired consequence of their doctrine—that civil war which is even worse than war among states.

For this reason we have always felt that the lack of balance between the rapid increment of the economic elements and the infinitely slower pace of the moral elements is most grave and fatal. And we have always felt that the saints, within or without the churches—both kinds urgently needed—ought to be invoked, and their presence be helpful in our day more than at any time in the past, to prevent the decline of civilization, to mitigate the feline instincts of human nature, which change their form but not their intrinsic wickedness. A great throb of the heart may save the spiritual life of the world much better than the most ingenious argument.

COMMUNICATION ON THE WORK OF ANTONIO ARLOTTA [1]

I WAS asked by Professor Antonio Arlotta to submit to the Academy a copy of his notable work *La reazione idealistica contro la Scienza,* which received a prize from the Royal Society of Naples, and I am happy to do it to-day. The judges of the Royal Society bear illustrious names: D'Ovidio, the late Professor Petrone, Professor Masci. The work was submitted to the society in answer to the following proposed theme: "The main contemporary currents of the doctrine of knowledge, with special regard to the philosophy of science." The book which won the prize is full of sound and profound erudition and of serene views, but is not, however, without some defects and omissions mentioned by the Committee of the Royal Society in its report. It is now published after two years of further research, and together with other writings by Professor Arlotta has obtained a new prize for its author, the chair of theoretical philosophy at the University of Padua. Professor Arlotta, as indicated by a recent article of his published in the review *Coltura filosofica* entitled "On a Spiritualistic Conception of the World," follows a spiritualistic direction, in spite of the fact that he is not orthodox by doctrine or by method, as the author says of himself. He does not recognize any other authority in philosophy than experiment and reason, according to the doctrines of eminent Italian teachers, among whom Professor Varisco may be mentioned. But it must be noted that for him, as for us, experiment does not include only physical facts but also psychological phenomena, and therefore what we call moral life. To investigate these matters rightly, the categories of the physical-mathematical mechanism cannot be applied, although they too must be studied with scientific methods. Otherwise one would fall into the *a priori* aberrations of the neo-Hegelians, who are now trying to renew in Italy the exploits of arbitrary dialectics, manipulating and rendering confused the clearest ideas. And what is worse, they exile from philosophy (in which any agreement among few and serene scholars is difficult) those thinkers who dare to advance conclusions different from theirs, multiplying excommunications more than the pontiffs did in the past, and almost never do now. And I mention the pontifical excommunication on purpose, because the chief and the principal disciples of the school (men of great learning and talent, and who because of these qualities ought to be more fair and mild in their judgments) no longer agree except in their intolerance toward the dissenters. The danger of positivism, more or less materialistic, is now past, but we have fallen into the opposite extreme, so that human nature, at first extolled, ought now to be absorbed into the "act of thought" which is affirmed to be the only real act. The monopoly of philosophical dictatorship should now be transmitted from a diseased positivism to an idealism even more diseased and full of doubtful scholasticism. These neo-Hegelians wish to install a new form of philosophical speculation in Hegel's footsteps, a form which would end by shutting itself, and annulling itself, in a pretended "act of thought." And we have reached the point where somebody affirms—as we have recently read—that insanity and normal consciousness are the same, that truth and error are only distinguished as present thought and past thought, and we hear paradoxes of this kind advanced as if they were great discoveries. I believe and I trust that the really illustrious man who deserves admiration for his superior talent and deep research (we never feel the need of denying the talent of those with whom we do not agree) himself regrets the errors of his disciples. But isn't this the effect of a method from which we draw the ultimate consequences? And who is not affected by this despotism of the neo-Hegelian philosophy?

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[1] Royal Lyncean Academy, meeting of January 18, 1914.

Meanwhile it is with real pleasure that I bring to the Academy's attention the dear and noble hopes of Italian philosophy, young and strong talents, such as Aliotta, Troilo, Calò, Della Valle, Brodero, Valli and others who go back to the philosophy of our fathers, the philosophy of nature and of spirit, leaning upon experience and reality. This philosophy does not mutilate any one of the faculties of our soul, where next to reason there are intuition, will and consciousness; and the more we fathom it the more it seems that it rebels against a research that is too exacting, removing further but not suppressing the mystery in which we live.

Since I have the honor to speak of such lofty matters before this Academy, I beg that I may be permitted to bring forward a controversy of scientific character that I had with Benedetto Croce. As the Academy is perhaps aware I have been searching for nearly a century for the origins of religious freedom in history. Therefore, while the Edict of Constantine in 313 A.D. seemed to be the first constitutional charter concerning the free practice of religions, I had the good fortune to indicate another document, much more ancient and conclusive, the Edicts of King Asoka, the Buddhist ruler of India. Those edicts, imbued with the spirit of the Master, molded in the successive centuries the soul of Asiatic Buddhists. My purpose is to follow the thread of religious freedom, perhaps never broken through the ages, not to deny the historic inevitability of the sphere and society, which explain intolerance, but to trace out the forefathers of the greatest human thought.

Now this is opposed by my friend Croce (who will not think it discourteous that I persist in my thesis, if he persists in his), and who, in the face of the immense company of martyrs whom I extol and glorify as the pioneers of a new civilization, martyrs of a divine or philosophical idea, asks: "Was Diocletian right or were the Christians? Innocent III or the Albigenses? Gustavus Adolphus or Wallenstein? the Catholics or the Protestants? Neither the one nor the other," he says, "but both together, if it is true that the history of human thought rejects all of them and includes all of them. . . ."

Such a doctrine reduces the interpretation of history to a vain dialectic which confounds, because at the same time it justifies Melito and Socrates, Judas and Christ, Calvin and Servetus, the martyrs and their persecutors.

The investigation into the state of mind of the martyrs of religious faith or philosophy makes us penetrate deeply into the wondrous spiritual mysteries, and is sufficient to show us the incongruity of a system which comes to ask whether Melito or Socrates, Judas or Christ, Nero and Diocletian or the Christians, were right.

The subsequent history of thought, as my learned opponent supposes, may have rejected and also included them all; they may both be right and wrong, when considered at a distance of centuries. But just as the spirituality of the human soul is affirmed in all ages through the excesses of positivism, in the same way a categorical imperative warns us that those who die for their faith, or for their country, or for humanity, leave after them a perpetual heritage of luminous examples which do not permit the victims to be confounded with the executioners. If the persecutors may be absolved they must not in any case be associated with the persecuted, and it is a fallacious philosophy which joins in the same forgiving inertia of judgment, as a product of necessity, the heroes of martyrdom and the inquisitors. Let us absolve the executioners if need be, but let us extol ever more the precursors and the martyrs; otherwise this Hegelian indifference of history would come to agree too much with the theory of the persecutors and the practice of persecution.

We may admit that rulers wished to punish doctrines that were judged anti-social, besides heresy and more than heresy; we may admit that the harshness of penalties was a result of the general harshness of the times. But shall we call those who preached tolerance in the midst of the horrors of religious slaughter dreamers and weak-hearted men?

It may be partly true, according to my opponent, that history is intolerant and that it is a succession of struggles from which progress bursts forth. But what is progress? And is not whatever we know about it always correlated with the persecuted? In this fatal and continuous controversy who is more entitled to immortal glory than those who suffered for the noblest ideas and, vanquished but not subjugated, came back for glorious vindications, handing down the redeeming torch to the predestined apostles and the martyrs? And who is there who would not wish to belong, in an ideal fatherland that every one of us chooses in his study of history, to the Gueux of Holland rather than to the armies of Philip II and the Duke of Alba, to the refugees of the American colonies who later founded the United States, rather than to the persecutors of their native lands, to the armies of Garibaldi and Victor Emmanuel rather than to Lamoricière's bands? The day when every judgment of preference and election would be extinguished, history would cease to be the teacher of life.

I beg the Academy's pardon for this digression and, going back to the point where my discourse started, I am glad to see the happy revival of philosophical study, that abandons scholastic logomachy and tries to penetrate into the mystery of nature and of ideas. The peoples without philosophical research and controversy, like the peoples which lack the joys of poetry and of art, are widowed of their ideal fatherland, and even amidst the triumph of science applied to the increase of wealth appear to be withered souls, searching in vain for the radiance of spiritual light.

THE ABUSE OF THE NAME OF GOD[1]

SINCE the day when this terrible war began the rulers, not the people in truth, have used and abused the name of the Deity. In the recent telegrams exchanged between the Emperor of Austria-Hungary and the sultan, the Almighty reappears. This will savor of irony if up in heaven it will come to the knowledge of the victors and the vanquished of Lepanto and the soul of John Sobieski.

It ought not to be permitted to invoke, in the name of the same hatred, two deities that are so different and that exclude each other in dogmas and in customs. At least on that occasion there should have been a sense of restraint, and heaven should be left outside and in peace.

We may be glad that the name of God has not yet appeared in the telegrams exchanged between the king of England and the emperor of Japan. Truly it would have been quite difficult to join Buddha and Christ in a single impulse toward a terrible war: a religion without God and one which rests upon a personal and redeeming God. One of Voltaire's ironic sayings comes to mind on this subject: "How many times, since God created man in His image, has man given Him tit for tat?"

Our civilization and a more sensitive and delicate religious sense should have kept us from this impure mixing of holy and profane things, from this materialization of the celestial idea, to which man has recourse, not for an individual or collective perfecting of the soul, but for daily utilities and for the material covetousness that make us return to the Dark Ages.

Fustel de Coulanges relates that St. Columban heard that his property had been stolen at the time when he was praying over St. Martin's grave. Then he went back to the grave and thus addressed the saint enclosed there: "Do you think that I came to pray over your remains just to have my property stolen from me?" And the saint felt obliged to cause the thief to be found and the stolen things given back to their owner. Each saint had a superhuman power and it was his duty to place that power at the disposal of his worshipers. The great French historian observes that in such a way does religion become a matter of business.

Louis XI of France sought to win the favor of St. Michael, St. Martin and St. Martha for his designs with great gifts which almost wrecked the public treasury; and Louis XIV said after the defeat of Malplaquet, "Has God forgotten all that I have done for him?"

The same invocations and the same unreasonable claims are advanced by rulers who sometimes are neither pious nor believers, and they dare to express themselves before that God who has forbidden that His name be taken in vain and who has declared the incompatibility of prayer and almsgiving with noisy show, saying for all people and all ages: "But thou, when thou prayest, enter into thy closet, and when thou hast shut the door, pray to thy Father which is in secret; and thy Father which seeth in secret shall reward thee openly."

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[1] November 30, 1914.

We should go back to the pious simplicity of the Gospel and beg God in the secret of our conscience for forgiveness for the blood that is shed, and not invoke His complicity. We must not use God for our terrestrial power but to educate us, with Franciscan purity to seraphic humility.

If the sad theme would permit Voltaire's sorry jests, which the writer abhors, with how many contradictions, how many errors, how many crimes would we render the Almighty conjointly answerable with ourselves in the days of peace declared, when there should be a reckoning made of the losses and gains of the vanquished and the victors? These gains and these losses, compared with the high sense of pure patriotism, respect for nationality, equity and iniquity used in wars, would they not put the Lord in the wrong, the Lord confronted with both the unjust and just facts of the conflict? Let us save Him from such profanation. Let us leave in peace that Father of all people, who, just as He has entrusted to nature those germs that contain in themselves the potential evolution of the world, with laws that science discovers a little at a time through the centuries, punishes and rewards the guilt or the virtue of the parents in future generations, denying to any man the right to represent Him or to seize for himself His omnipotence in these tragedies of war which are the tears, the remorse, and the atonement of humanity, and are justified only when civilization conquers barbarity, when nationality, which represents right, conquers might, and liberty saves the people from open or hidden tyranny.

Human Pity from Leonardo to Our Time [1]

The men of the Renaissance worshiped beauty, classical culture, science and power, but they seemed unaware of the holy gentleness of pity and the love of neighbor raised to the pinnacle of sacrifice. A statue by Phidias attracted them more than the Gospels or St. Francis' *Little Flowers*. But Leonardo's universal mind knew how to harmonize the two inexhaustible forces of Greek art and of Christianity, and, as it were, grafted the roses of Hellas upon the thorns of Galilee. He, forestalling the centuries, discovered nearly all the essentials of aeronautics, of mechanics applied to industry, of ballistics and hydraulics. . . . He knew also how to build submarine boats and arm them. . . .

Was he to reveal to the world this infallible and invisible instrument of death, or keep it locked up in his powerful brain?

[1] Reprinted in January, 1915, but written six years before and published in the *Nuova Antologia.*

This new conflict agitated the mind of the titan of art and science, and pity prevailed over pride. He refrained from publishing the plan of the new machine on account of the wickedness of men who would have used it to murder, from the bottom of the sea, breaking open the ships and sinking them with their crews.

Comparisons and observations crowd the mind here and they render more sublime Leonardo's figure.

The impulse of gain did not move him to sell the formidable technical secret to one of the maritime states of that time, which would have paid untold gold for it. In the hands of Venice, for instance, it would have meant the reëstablishment of her naval hegemony. Nor is he attracted by the fascination of science which would have given to his discovery the glamour of fame at a time when science was esteemed more for its creation of power than for its intrinsic greatness.

The feeling of human pity prevailed over all the impulses of gain and of fame, delaying until our day a terrible means of destruction.

To-day humanity oscillates between the Red Cross, product of human kindness and supplied with technical knowledge, and the inventors of murderous tools of destruction which reap a harvest of young lives and deprive humanity of its bloom. No one feels Leonardo's delicate scruples, and if those formidable contrivers of new slaughter are moved by a sense of humaneness they may apply part of their pecuniary profits to reward the promoters of universal peace, as in the case of Nobel.

They may console themselves by reading in Ecclesiastes: "To every thing there is a season; a time to kill and a time to heal, a time to break down and a time to build up; a time to hate and a time to love; a time of war and a time of peace."

Some one may derive comfort from the idea that, with war becoming more and more destructive, the fear of a universal catastrophe will prevent its breaking out, . . . provided that there is not a renewal of the fabulous Cadmean battle in which all perished, except five survivors saved by destiny to reconstruct the city and the race.

As for us, among such fierce and seemingly inevitable tragedies we may temper our sorrow by thinking of Leonardo's strong and wise pity.

CREEDS IN ITALY [1]

MARIO ROSSI, a writer of rare clearness and wisdom, reasons with calm simplicity in the *Bilychnis* about the religions of Italy as indicated in the *Atlas hierarchicus,* published by Father C. Streit in 1913, and according to the latest census of the population of Italy that it was the writer's good fortune to cause to be resumed in 1910. The German father, who was writing in 1913, fully two years before Italy entered the war, is hostile to the Italians, and depicts us as a people groaning under the weight of taxes and ruled by sects which persecute religion and the clergy.

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[1] May 21, 1916.

But if the reverend father were consistent with his previous statements, what could he say now about the attitude of the Italian clergy—both in high and minor places—spontaneously joining their voices to the rest of the population for the complete redemption of the fatherland?

What will he say about Cardinal Maffi's recent speech, in which that illustrious prelate asks in the name of God for the victory of right, the liberation of the oppressed peoples, rising up against the organization of brutal force? Those Teutonic writers who would turn the Italian representatives of Catholicism against their country must indeed find the true situation quite disappointing.

But to go back to the statistics of religion, according to Father Streit the Italians belong almost entirely to the Roman Catholic church, and he is right in that, because in the census of 1901 there are registered 32,983,664 Catholics, to which number must be added 1,443,801 in the last two years, an increase—as Signor Rossi notes—due entirely to births. Signor Rossi observes also that the Catholics lost proportionately twenty per thousand, while the Italians who declared they belonged to no church at all increased twenty-five per thousand, and there was a proportionate increase also for the Protestants. We confess that we cannot follow the distinguished writer in the somewhat biased conclusions that he seems to draw from these statistical data. Italy remains an essentially Catholic nation, and the 65,505 Protestants of February, 1901, who became 123,253 ten years later, do not modify the religious solidarity of the country. On the other hand, if those who lacked the courage to declare their religion diminished in the same period from 795,276 to 653,404, there was a notable increase of bold spirits who openly declared they did not belong to any religious faith, whose number grew from 36,092 to 874,532, among whom there are 315,355 women.

How many of these are atheists without God, or deists without a church? The distinction is important. There are mystic and restless minds that suck the sweetest honey from all divine flowers, from all the different religions, and who refuse to stay within the narrow walls of any particular church. There are agnostics who say to themselves *ignoramus et ignorabimus,* and others seek the truth with feverish anxiety in which there is something religious, and they feel and think that if we do not know to-day, we shall know in the more or less distant future, thanks to the diligent research of faith and science, trusting that some day these will be reconciled. All these different attitudes are confused in the arid category of those who declare that they do not belong to any religion, together with atheists, either vain or thoughtful. But how is it that there is among them such a large number of women? To what social class do they belong? To the well-to-do, or to the poor? No one has declared his or her total lack of faith in the Venetian province (except in Padua, Rovigo and Verona), in Abruzzi, in Campania and Calabria, in the province of Lecce, in the Sicilian provinces of Messina, Caltanisetta, and Girgenti, in Bergamo and Como in Lombardy.

But these strong or weak minds, these happy or unhappy persons—

according to the point of view from which they are considered—are found in large numbers in the provinces of Ravenna, Ferrara and Reggio Emilia (258,289), in the provinces of Milan, Mantua and Pavia (137,470), in those of Florence, Leghorn and Pisa (116,390), in Piedmont, especially at Novara and Alessandria (78,196), in Genoa (65,908), in Apulia, particularly in Foggia and Bari (42,386), in Verona, Rovigo, and Padua (37,937). Catania and Syracuse in Sicily have altogether 31,723 who declared they did not belong to any church.

In central Italy those who have no religion are found to be numerous among those who have no legal family, that is to say those who contract free unions, without the intervention of a priest or of an officer of the law. We do not know whether they suppose themselves to be more free than we are, or whether they are slaves of a demagogical prejudice. Surely they are guilty of the sin of pride; when they reason among themselves about this great theme—if they ever do—they must repeat to themselves the line of the great French poet

Qui de nous, qui de nous va devenir un Dieu?

A man freed from all human and divine bonds becomes very nearly obsessed by a pride that exalts him until he believes himself to be a God, while in truth he is but a poor creature who perhaps offers less resistance to the woes of life than a believer.

Two more observations can be made about the Italian census. Protestants increase in number, and Jews on the contrary diminish. The latter were 35,617 in 1901, and ten years later they numbered but 34,324. Some of them must have increased the ranks of those who declared a lack of any religious faith; some may not have declared their faith, for there must be a greater number of Jews in Italy. Why do some of them hide their religion? There are some who, while being Jews, are ashamed to show it. Is it to avoid some particular annoyance? In Italy this cowardice ought not to exist, and I hope I am not the only Italian Jew who, while having left the religion of my father many years ago through profound convictions resulting from calm study, becomes a Jew when it is an act of dignity to call one's self such in the face of the dangers and the mockery which are never lacking.

This immortal race was saved thus far because of the persecutions that it suffered; and from them it derived the virtue of self-preservation and perpetual rejuvenation.

The members of the Greek church decreased in ten years from 2472 to 1378, constituting small islands lost in southern Italy.

On the other hand, as has been said, the members of various Protestant denominations grew in number. The Waldensians, the heroic defenders of religious freedom, number 25,644 adherents, who keep burning the ancient flame of a conscience free from external bonds. What is remarkable is the diffusion of Protestantism in southern Italy; in Sicily (especially in the provinces of Catania, Caltanisetta and Syracuse) the Protestants number 16,220; in Apulia (particularly at Bari and Foggia) they number 13,550; in Campania, 7827, in Liguria (Genoa) 6558, in the provinces of Parma and Reggio, 5848.

Father Streit says that Baptists and Methodists carry on an intense work of propaganda, using all means in the cities, but obtain very poor results in country districts.

What does the reverend father mean when he says "using all means?" Of course the Baptists and Methodists of England and America lend their help—as is their custom—with voluntary contributions, because in those countries the faith which prays is also the faith that pays. There is no state action in the American republic to render the worship of God free of expense. And one who has administered the Department of the Interior in Italy has had occasion to observe that there has been no lack in these last few years of conflicts in the southern provinces between Catholic majorities and Protestant minorities in country districts.[2] This, however, is in my opinion far from justifying the judgment given by a friend of Carli's, who sees as possible the transformation *en masse* of the Catholics of Calabria into Protestants, if it is not forestalled by the action of the socialists.

Religion (even for those who consider it as a natural fact without superhuman aspects) is connected with too many ethnical traditions to permit these sudden changes; and of this the socialists are aware, attacking by preference the social order, and generally keeping silent about the divine order of the communities where they work their propaganda.

Here I recall a sentence by David Friedrich Strauss in his *Ulrich von Hutten:* "The French and the Italians, when they cease being superstitious, become atheists, that is to say entirely frivolous." This observation seems to me empty, because when they cease being believers (which is quite different from being superstitious) the Italians create humanism and the French the "rights of man," things which are far from being frivolous.

But we would never end if we wished to go on talking about a religious census, even when, like that of Italy, it is much less complicated than the one made by the British in India in 1913, in which 313 millions of believers in thirteen different religions were enumerated.

It is far more difficult to penetrate into the religious soul of men than into their political mind. The idea of God, which seems at first sight the most natural and simple, ends by becoming the most complicated, and full of heavenly and earthly twisting. The higher the spires of a church rise in the air, to carry the prayers of mortals to heaven, the deeper must its foundations sink in the earth to prevent a falling of the edifice!

A LITTLE KINDNESS [1]

SHALL we have universal peace after this terrible war and will the League of Nations represent the might of right, of benevolent persuasion, in place of the right of might? Blessed be the peacemakers, for not only will the kingdom of heaven be theirs but also the kingdom of the earth!

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[2] See Appendix XIV.

[1] *L'Indépendance Belge,* July 5, 1919.

As the prophet of Israel predicted, the swords shall be beaten into plowshares, to furrow the earth saturated with blood. . . . The vision is apocalyptic but the realities of this world are still sad, very sad!

After a war that was necessary to defend our fatherlands against brutal aggression we still see useless slaughter going on in many places, which dishonors the countries where it is taking place. Let us cast a glance over the situation in western Europe. In Russia civil war is raging, and we know that civil war is a devastating cyclone which lets loose all the instincts of violence that exist in the human soul. Hungary has followed the example of internal destruction, and even in Germany it is imitated in a certain measure.

What the creators of the League had not foreseen is now arising. The spirit of nationality, one of the most admirable and purest sentiments—a race being like a diffusion and an effusion of family—threatens new conflicts in the Balkans. The Roumanians and the Serbs align themselves against the Hungarians, the Poles against the Germans and the Ukranians; the Jews are persecuted; the Jugo-Slavs and the Czecho-Slovakians are against the Austrians; and I do not mention the feelings of the Jugo-Slavs toward Italy. . . . Allies of the same race who have shed their noblest blood together on a hundred battlefields quarrel among themselves to the delight of our enemies!

Can we not then say to humanity the fateful words *Quo vadis?* Was not enough blood shed, were not enough cities destroyed, enough human beings mutilated, enough masterpieces of human genius pulled down? *Quo vadis?*

The wonderful progress of science has brought no improvement in the hearts of men; the direct responsibility for the universal disaster from which all the continents are seeking to emerge belongs to the nation where the cult of science was most intense and diffuse. All the forms of wealth directed by technical knowledge, and the latter directed in its turn by disinterested research, lead to the most unexpected results. The intense aspiration toward material welfare has become universal. The increase in wages and salaries, fruit of just social vindications and active economic laws, is still below the growing needs of men. We become impatient, we find the evolution that is taking place too slow. And we wonder whether the empire of man over nature keeps pace with the empire of man over himself. Does man succeed in moderating his passions as he succeeds in directing the energies of matter? Is moral progress in accord with political and material progress? Are the social laws the effect of goodness or of fear? Are the liberated nations making any real effort toward purification?

Formidable questions are these, anxious doubts which arise in the new world freed from the dictatorship of military states.

In the conscience of a single individual and in the collective conscience of a single nation the noblest thoughts, the finest sacrifices are manifested together with the harshest impulses, with equal sincerity. Small martyr nations that have accomplished miracles of heroism attack their brothers, the brothers in arms with whom they had defended themselves against the invader. How can humanity escape such fatal contradiction? Why do we not see the saints of morals rise next to the saints of knowledge?

We must reëstablish the balance between the miracles of science and the miracles of kindness. We need a little of St. Francis of Assisi's simple wisdom. The societies of the present day have great need of such celestial spirits to prevent their destruction in spite of their scientific and political glories.

We need men who can tell the bellicose spirits of all countries those great truths that spring from the heart. They and they alone can succeed in giving us, among the cruel struggles of classes and nationalities, that internal peace which may herald universal peace.[2]

GOD AND DEMOCRACIES [1]

THE French law which separated church and state—especially the Catholic church—brought to its sponsors infinite praise and infinite censure. Those who study with thoroughness and impartiality these arduous themes which will always be present under a democratic form of government, judged the law too strict, too far from the two formulas developed in Italy, viz. a "Free Church in a Free State" and "Free Churches in a Sovereign State," and preferred to it the law recently enacted at Geneva in Switzerland, or the institutions of the United States. But moderation in the treatment of the Catholic churches and the practice of religious corporations, together with the spontaneous payment by the faithful of the expenses of the cult, and the effect of the Great War which united believers and infidels in their devotion to country, had established such a chastening of spirit in France that there was already talk of the possibility of resuming diplomatic relations with the Holy See. Now the return of Alsace and Lorraine to the French republic has profoundly changed the state of affairs in that country. France, some believe, will have to modify its religious laws, for better according to some, for worse according to others. The Catholics of Alsace-Lorraine who make up the majority of that redeemed people, exclude the applications of the Law of Separation of December 5, 1905, and further provisions which might appear to be, and therefore might be, acts of religious oppression. Both M. Clemenceau and M. Millerand have become convinced of this fact, and they are both freethinkers who maintained temporarily the concordat under the provisions of which the bishops of Strasbourg and Metz were recently appointed. The same may be said for the methods with which the expenses of the different cults were supported under German rule in the regions conquered from France in 1870.

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[2] This article, written in 1919, was a dream from the anguish of my heart, and the invocation of that time I can only repeat to-day.

[1] December 11, 1919.

Will the temporary condition become a permanent one with the system of prorogations? Or will the Catholic clergy no longer be paid by means of additional supplements to certain taxes, and will the church buildings and parsonages become the property of the state? Or will France have two different regulations for the exercise of the cult in different parts of the country?

The German government compelled the faithful to pay supplementary taxes—on direct taxation—to an ecclesiastical treasury which was to support the expenses of the cult and the salaries of its ministers. Every citizen could be freed from this additional payment by a declaration of unbelief or adherence to a different creed, but he was not free from contributing to the expenses of the cult, whatever it was, that he practiced. This formula, which all creeds would accept in Alsace-Lorraine, would be against the idea of separation because, according to the principle consecrated by the example of the United States, every creed exists by voluntary contributions of the adherents, and the French law of 1905 follows this principle. The faith which prays, pays! But will the German concordat of 1901 with the Vatican for the Catholic creed in Alsace-Lorraine stand? If it is to stand then France will resume diplomatic relations with the Vatican; if it is allowed to be dropped there will be the danger of arousing the discontent of a population which has an equal belief in its country and its God. It would be opportune under the circumstances to take up again negotiations with the Vatican, and a settlement might be agreed upon to revise the law of 1905 in the matter of the associations for the practice of the cult, connected with the use of church buildings.

As can be seen, whenever religious questions seem to be settled or appear to be forgotten, they arise more pressing than ever, because faith is perpetual, no matter how much the political forms in which it is expressed may change. The problem that is now agitated in France deserves the closest attention, not only for that country but also because of the influence of its example upon other democracies.[2]

AGAINST MONISM [1]

Dear Sir:

With your address you want to take away from me my consciousness, my *ego,* and I demand with humble firmness that they be given back to me.

Your monism materializes consciousness in order to idealize matter;

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[2] The whole matter later had a liberal interpretation in the development of ecclesiastical legislation.

[1] This letter was written in February, 1920, to Mr. William James, one of the principal American monists, after a lecture delivered by him in Rome about his doctrine.

your physiology exiles the soul and forbids mentioning it by the superior prohibition that science lays claim to pronouncing, like the inquisitors of old. On the other hand, that same physiology assigns a soul to things.

According to your doctrine consciousness is but a point of intersection between the *ego* and the *non ego;* and even this point can only be a material line marked in space.

But we spiritualists dare to think—notwithstanding your authority—that consciousness is the affirmation of individuality, which recognizes itself and remains unchanged through the changes in our body and those which take place in the external world with which it communicates. And this consciousness finds its most evident expression in moral responsibility, remorse and repentance.

That is the great mystery.

You may obtain an analytical knowledge of all the nerves, of all the substances which burrow the brains; you may determine their functions, without succeeding in explaining—even with the aid of the most exact instruments—this small thing: a consciousness which remembers its faults, suffers remorse for them, and rises to repentance. Your psychology and your physiology cannot solve these problems. They have the great and noble mission of diminishing the mystery of life, of making it derive from a clearer source, but the mystery persists.

Consciousness cannot be violated in its freedom and in its unity. Just as it resists all despots it will resist the new despotism of the physiologists who, unable to measure it, suppress it. They dare to affirm the identification of the individual consciousness with a beautiful spectacle, when it is absorbed in Beethoven's music or in a painting by Raphael. But, even when plunging in this ideal of beauty, consciousness preserves its individuality. Were it not to preserve it, it would be incapable of tasting the sublime joy of art. The picture by Raphael does not feel and does not enjoy the beauty that it reveals. It has the faculty of awakening it, placing itself in relation to my *ego*. My *ego* rises in that epic moment to the height of Raphael's soul. The more it rises the more it is ravished, and the more it draws near to that genius. Then a communion of souls takes place, aroused by art. The *ego* is trained in this continuous elevation of the ideal and, just as it has no limits in possible descent, it knows none in ascent.

This is what consciousness learns. It feels the ineffable exaltations of art, science and religion; accumulates, remembers and has its internal projections. The world which surrounds it enriches it, but cannot create it.

Be satisfied, sir, to remove the mystery of life further from the regions lighted up by your science, but do not attempt to do what is impossible, to destroy that consciousness which every human being will take away with him into the other life, and which will be his future life.

ST. BERNARDIN OF SIENA AND GIOVANNI GIOLITTI [1]

ST. BERNARDIN of Siena and Giovanni Giolitti have both treated—the former five centuries before the latter—the same argument of dishonesty in trade. The saint summarizes his discourses in a few precepts which are quoted in a modest publication, *Per il Bene,* issued fortnightly at Pisa, full of goodness, of wisdom and of knowledge, and for that very reason little known outside a small circle of readers.

St. Bernardin is against trading on holidays; he urges traders to sell goods with equal fairness to foreigners as well as to fellow countrymen, to the simple and ignorant as well as to the expert and enlightened. And he admonishes all traders against trafficking to the damage of the republic, and against putting private interest before public welfare.

> Beware of lying, of oaths, of duplicity, of all sorts of deceit. Use just measures; do not sell at a dearer price or buy at a lower price than is permitted by justice; do not raise the price to those who are compelled to delay payment.

And as a conclusion to this golden advice, which is both human and divine, the saint exhorts the merchants and shopkeepers to select a pious and learned father confessor to whom they may tell their sins in speculation, and he tells them never to be too much away from their families.

What high subjects for great sermons from the pulpits of all the churches would be offered by this simple and at the same time sublime advice!

The saint who, in order to improve the trader advises him to live within the domestic walls, where the remorse of deceit is felt more keenly than in debauchery with companions and friends, chooses one of the best sanctions against the creation of the high cost of living to the damage of the consumers. These golden maxims would indeed be of great advantage if engraved on the façade of every store, to attest to the incipient conversion of the traders.

The saint did obtain the effective repentance of not a few speculators, such cases being more frequent in the Middle Ages than in our day. There were then great sinners, great redeemers and historic redemptions. In the somber times through which we are passing both Italy and all other nations lack saints and redeemers; the remorse for a sin is less keen than in the past, and we are inclined to trust to the severity of the law, just as the premier of Italy has done. Will he succeed better with the stern laws that he proposes to have enacted than St. Bernardin of Siena with his sermons? We are unfortunately inclined to doubt it, but we cannot hold the head of a government responsible because he has not saints at his disposal! We must, however, recognize that a sermon like that of St. Bernardin's would be an admirable exordium for a series of severe penalties. Many who are not frightened by the severity of the law would perhaps yield before the mystery of a future life, the consciousness of which might be reawakened in them. But be that as it may, and with the hope that both heaven and earth will concur to purify both wholesale and retail trade, we may remain skeptical of the salutary effect of the best conceived laws. Who can be expected to enforce them with fairness and thoroughness in this great and silent complicity of sellers accustomed to impunity and of buyers bound by the ties of small debts? For this reason the saint who without knowing it was a great economist (while it rarely happens that economists are saints) said, "Do not increase the price of goods to those who are compelled to delay payment."

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[1] September, 1920.

The great difficulty of these provisions resides in their execution. Something may be obtained by associating those who watch with those who are watched and the vendors with the consumers, to break up all open or hidden complicity. This salutary effect is obtained by coöperation, and for this reason a great religious, moral and coöperative movement would be, in our opinion, more fruitful of results than a new severe law, or at least there would be less danger that the law would remain without any practical effect.

Just prices, honest merchandise, lawful and exact weights and measures, are all things that are desired in vain even in normal times; and the proof of that is found in the expansion of the coöperative movement. In the dark times through which we are passing the occasions for evil grow because of the complicated rules for preventing them, and we must seemingly be resigned to seeing still worse conditions. To be frank, even St. Bernardin seemed convinced of that, although he was trying to sow the seeds of fairness and honesty in trade with his exhortations of relative justice in buying and selling.

ON THE DEATH OF BENEDICT XV [1]

WE have imagined an ideal pontiff exhorting the princes and the peoples not to declare war, using for such a holy purpose even the supreme consideration of divine threats.

When the terrible conflict broke out, that conflict which with a new ferocity in its horror drew into its fatal surge nearly all the nations of the world, the efficacy of divine threats could have been directed against the states principally responsible for the terrible slaughter that was to come. But perhaps neither Pius' mildness nor Benedict's diplomatic acumen dared to accomplish an act which, if followed by disobedience, could have weakened religious sentiment. The two supreme hierarchs were, however, permitted at times to prevent some grave act of wickedness, and to use evangelical charity to temper the souls of the fighters. We cannot, indeed, pronounce severe judgment on the good that the two pontiffs did not do in the midst of that frightful outburst of universal hatred.

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[1] January 24, 1922.

Pius X was not a diplomat and could not have accomplished the conciliation of the Vatican with the government of France. The pontiff who had just died did win an agreement with the French Republic, without diminishing the effect of the French law for the separation of church and state. This agreement contains a vital substance, and it is the consequence of the return of Alsace-Lorraine to France.

The nations, hungry for peace, must express the desire that the new pontiff may synthesize the two spirits of Pius X and Benedict XV. May the idealistic faculties of the former and the more concrete ones of the Pope now ravished by death obtain from Italy and the world with prayer and with love the pacification of the nations divided, suspicious of each other, hesitant to join their forces in a holy work of rapid reconstruction.

To achieve this, to extinguish the germs of a new war, it is now felt by the universal conscience that a saint ardent with love and shining with wisdom could be more effective than all the conventions and all the congresses, often darkened by the greed of financiers and the impotence of diplomats.

RELIGIOUS INTOLERANCE IN THE UNITED STATES [1]

(Legislation against Parochial Schools)

EVERYWHERE in Europe there are indications of indifference, disgust, disappointment and opposition to everything which pertains to the sublime and constitutional idea of religious freedom. The people seem almost tired of it, but they would become aware of their error if they were to lose it. There remained, however (and still remains, we trust), notwithstanding some clouds, the resplendent and perpetual example of the United States, where all creeds and all sects live in complete independence, where the faith which prays is the faith which pays, where, however intense be the spirit of worshiping God under different forms, the state does not interfere except to show the deepest respect for all the faithful adhering to different creeds and to protect them against acts capable of disturbing them. Still, we read in the February issue of the liberal *North American Review* some observations of an obscure character devoted to religious freedom which penetrate like a dagger into our hearts. The violent and sectarian action of the Ku Klux Klan had already embittered our souls. Now, with methods less brutal but equally malevolent, an association composed of groups of Baptists, Methodists and Presbyterians has been organized with the purpose of compelling all children to frequent a public school until their eleventh year of age, by a law to be enacted in all the states, which would impose severe penalties for those families that violated it. In this manner all private schools for little children would have to disappear, those schools that are judged necessary principally by the Catholics in the early education of childhood. The Catholics oppose the new attack with a just resistance, demanding the exact allotment among all schools, in proportion to the number of their pupils, of the money appropriated for educational use. As is known, it is in the primary schools that the first battles for religious freedom in education are everywhere fought. We are rather surprised to see the Baptists engaged in this illiberal controversy, for they suffered other restrictions in the past, even in Protestant countries, and because they do not easily succeed in making the different sections into which they are divided understood. We who defended, because we have always been inclined to defend, those who worship God in different ways, find it still difficult to understand the subdivision of the Baptists into five different and autonomous sects. It is truly hard to comprehend how the "general Baptists" believe in the Trinity while the "new Baptists" are Unitarians, both adhering to the same Baptist denomination. Both these sections are divided in their turn from the "particular Baptists," because they believe that salvation is predestined for all men, while the "particular Baptists" think that only some of them are destined to be saved, a belief professed by rigid Calvinists. Then there is the fourth section of the Baptists, who celebrate as the day of rest the seventh day of the week instead of the first; and on account of this distinction they proceeded to organize a new sect. Finally, to crown the edifice, there are the Scotch Baptists, Calvinists in their doctrine but more faithful than the "particular Baptists" to a rigid observance of apostolic usage, like the Holy Week, weekly communion, washing one another's feet, plurality of pastors, etc.

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[1] April 12, 1923.

Now we say to all these different sects of Baptists, even if they appear strange to us: May you too live, and may you enjoy complete religious freedom with all its consequences for the education of children. But why deny it to the Roman Catholics, who number twenty millions or so in the United States? In the states of Michigan, Oklahoma and Oregon the educational bills against Catholicism have been submitted to the respective legislatures of those states, and in Oregon such a bill has been adopted. What wonder that the American Catholics, whose patriotism cannot be doubted, still desire that their children be kept apart in their first years at school from the children of parents belonging to churches so different, the adherents of which find so much difficulty in agreeing among themselves? Throughout the world men wish to worship God in their own way, and they invoke this right, even when they take it away from those who profess different creeds. There is only one just and holy solution, to which Dante's words can be applied:

> He seeketh Liberty, which is so dear,
> As knoweth he who life for her refuses.

Men die for the liberty of their faith, as they die for the liberty of their country; and they die gloriously for both kinds of liberty. But after so much slaughter in the name of heaven, which it profanes, the wisdom of constitutional law knew at last how to substitute for the atrocious persecutions the inviolability of all creeds, the freedom of respectful controversy, so admirably interpreted in a famous sentence: *In necessariis unitas, in dubiis libertas, in omnibus charitas.*

[This article, which was also published by the *Corriere d'America,* a New York Italian newspaper, produced a certain uneasy feeling among those whom I had accused of violating religious freedom to the detriment of the Roman Catholics. Among others, I was answered by three newspapers published in the Italian language in America in defense of Protestantism. They are *La Voce,* Methodist, *L'Era Nuova,* Presbyterian, and *L'Aurora,* Baptist, published in Philadelphia.

The last newspaper, affirming the reality of my hope that religious freedom was not in danger in the United States, entitles its answer: "It still remains, Signor Luzzatti!" The writer of the article wishes to emphasize the fact that the Protestant churches of America desire to disavow responsibility for the action of the Ku Klux Klan, but ends by a defense of the latter, which, according to the Baptists, does not molest any sect, not even the "Papists." The newspaper denies the paternity of the Baptists in the effort to unify primary education in America. And after these declarations it goes on to accuse the Catholic groups of proselytism and effort to dominate. It denounces the papist parochial schools from which come the Knights of Columbus, who wish to "extirpate all heresies," and it accuses with useless harshness Catholics in general. Then it concludes by affirming that the Baptists "just because they suffered for the conquest of freedom of conscience" intend to maintain this freedom, and assures me that as long as the United States remains a Protestant country freedom of religion will be safeguarded.

Now harsh and accusing answers have never convinced me. In my opinion those who answer with intolerance show that they are unable to keep up a free and calm controversy about a religious subject. The method used by the newspaper has confirmed my fear rather than mitigated it, and I am more than ever sadly convinced that even under uniform laws the baneful conflict of different races and creeds may still reek and blaze. The forms of freedom are not its essence, as a great American, William Ellery Channing, said about a hundred years ago. The spirit of a free constitution may be lost while the letter is jealously preserved. The wisest provisions may become the shield of tyranny, and a majority may change itself into a faction, insulting and oppressing the minorities which it wants to strike.][2]

NOTES WHICH ARE TUNED TO CELESTIAL HARMONY [1]

A LEARNED, patriotic and fortunate publisher sends me these four little volumes which he desires me to present to the Lyncean Academy, which appears to be neglected while in reality all desire its serene judgment. Signor Formiggini has initiated with these volumes a publication on the *Apology of the Great Religions,* entrusting it to competent and conscientious scholars.

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[2] The Oregon statute against private primary schools, above referred to, was declared unconstitutional by the U. S. Supreme Court in the case of Pierce vs. Society of the Sisters of the Holy Name (268 U. S. 510) in 1925. (American editor's note.)

[1] Report to the Royal Lyncean Academy at its meeting of March 16, 1924, presenting the new collection of the *Apologie.*

The first of these volumes is written by Carlo Formichi, whom I consider the greatest among students of Buddhist lore, and it is rich with the result of new research. Although its subject matter is strictly historical, the reader finds it a narrative full of poetical thought. The apology of Judaism is by Dante Lattes, an erudite and eloquent writer. Ernesto Buonaiuti writes a lofty defense of Catholicism, and the apology of Protestantism is by Ugo Janni, a distinguished publicist. Each one of these distinguished writers extols the creed which he expounds; and a candid eclectic with a mystic soul, after reading these books, may associate himself for an instant with the celebration of Buddha, of Jehovah, of Christ and of Luther, and feel inclined to consider these different forms of divine worship as notes of a harp tuned to celestial harmony.

The collection will be completed by five more works on religion, the first on Taoism by Professor Giuseppe Tucci, a young scholar of great talent who knows all the Asiatic tongues in addition to the European. Four works about Confucianism, Jainism, Islamism and Paganism will complete the series.

I am now going back to the point whence my discourse started, to add a few words about Carlo Formichi, who dedicates with pious thought the apology of Buddhism to his mother's memory. Some years ago, when he made his admirable defense of Buddhism (surely superior to Brahminism because it has purified all men by the abolition of caste, declaring them all equal upon the earth as they are equal in heaven) at the Italian Philosophical Society his fundamental statements on the superiority of Buddhism over Christian morals seemed to me erroneous. I asked leave to answer immediately, and the serene controversy between Professor Formichi and myself is still pending, with myself more tenacious than ever in my affirmations. But there is a point in Professor Formichi's book which rejoices my soul. The distinguished author is kind enough to recall twice, summarizing my thought with clear exactness, that the great Buddhist king Piyadassi had, centuries before the Edict of Milan by the Emperor Constantine, promulgated a law which is, I believe, the finest, most technical and most constitutional defense of religious freedom, inimitable in form and substance. The religious freedom which issues from the mind of an atheist may defend the exercise of an inviolable human right, but if it comes from the ardent heart of a thinker who is firm in his own faith it represents a sublime act worthy of celestial goodness. And when we think that, to-day as yesterday, the renewed and inexhaustible religious persecutions take as a pretext celestial love in accomplishing the most contemptible forms of cruelty that history records, we feel under a duty to thank Professor Formichi for his notable historical evocation.

May we be permitted to regret the absence of such a distinguished writer from the roster of this Academy?

Signor Formiggini, the publisher of this notable collection, intends to have these studies on religions translated into the principal European languages, and we recommend to him not to neglect the Asia of Japan and India. In this way, and through the work of Italians, a silent congress will be held in the whole civilized world on the history and the merits of the principal religions.

BLIND FAITH [1]

THERE used to be a happy corner of the earth where every religious faith was freely professed, and where God, the Father of all people, could be freely worshiped in different ways, according to the intimate desire of one's own conscience. This happy place, full of independent churches, was the United States of America. When the inhabitants of the old colonies, freed from British rule, gave the example of a new and admirable constitution, they consecrated full religious freedom, with no acknowledgment of any state church. It is from there, from that country truly conscientious in its belief, that I derived my formula, "a free religion in a sovereign state"; a state in which the faithful had fully learned the principle that the faith which prays must also be the faith which pays. Every church organized in the United States spontaneously gathers the means which assure its existence, which sums are in many cases much greater than those of other churches directly or indirectly supported by the governments of other countries.

But now—as is unfortunately happening in Europe—the purity of this great moral ideal is beginning to be tarnished in the United States also. In Texas, in Oklahoma, in Indiana and in other states the wicked organization, the Ku Klux Klan, has been organized with the purpose of achieving political power and using it to fight the Catholics, the Jews, and the negroes. Meanwhile it persecutes all of them with all the means at its disposal. If Washington and Franklin were to come back among us they would be horrified at such a profound decline from those great principles of theirs, which have made America.

The echo of the national Democratic convention still persists these days in New York, that convention in which the religious struggle, excluded by the platform, was still dominant and apparently prevented the nomination of Alfred E. Smith for the presidency, a candidacy for which his high personality designated him. This is an episode which characterizes our time. The religious battle is fought against good, loyal, cultured citizens, against public men of great achievements, simply because they pray in a different way from the majority. The nation is the loser in this case.

Smith won a signal victory as governor of New York state by a plurality of 375,000 votes, and New York has remained the citadel of liberalism. Although a Catholic, we may say because a Catholic, Smith always abstained from favoring his coreligionists in any way in governmental action, respecting all other creeds in the name of religious freedom. No one asks in the state of New York, because no one is in doubt about it, whether a Catholic may become president; but there we have a state where the variety of the population imposes religious justice. Of the four principal state officials, the governor is a Catholic, the lieutenant governor Unitarian, the attorney general is a Jew and the comptroller a Catholic.

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[1] *Corriere d'America,* July 30, 1924.

But outside of New York liberty is tossed here and there in a tempest of passions. The first cry of reaction was that of the Reverend Dr. Burchard, who many years ago assailed in New York the Democratic party as representatives of Rum, Romanism and Rebellion. In a few months the dispute may become furiously political, and the Ku Klux Klan will incite the minds and the arms of the people to open to it the way to power, aided by race hatred, by tenacious exclusivism and by exaltation of passionate nationalism, in which contempt, antipathy, hostility and animosity always originate.

Poor humanity, in which all that is pure, beautiful and great in free faith is weakened, while there remains all the intolerance, the envy and the intention of considering one's own creed as a ferocious monopoly. And if in the United States the admirable banner of "Free Churches in a Sovereign State" were to fall into the rapacious hands of the persecutors, the finest and most immaculate of all civil liberties would also come to be stained, and the intolerant of all the world would be given a new argument to make their persecutions more harsh and cruel.

AN APPEAL TO THE LEAGUE OF NATIONS [1]

THE eminent directors of the League of Nations must be passing through a series of melancholy days, thinking of the renewed obstacles which rise before their evangelical work of pacification. There is no longer a corner in Europe where political restlessness does not reign; but it is understood that the League of Nations cannot directly interfere on account of the profound respect for the sovereignty of the individual states which compose it. There is, however, an essential point which ought to persuade the League to break the prudence of its silence, intervening with moral suasion, and, if this were not enough, with the international means that it can use. Everywhere there are states represented at Geneva, or over which the League of Nations exercises its right of legitimate interference, where the religious or ethnics minorities under the guardianship of solemn treaties continue to be persecuted. Especially in Germany and in the Balkans are these sad proofs of human harshness continually manifested. This is not the place, nor is this the time, to inquire into the methods used after the war for the reconstruction of new states. But there is no doubt that the medley of nationalities has become even more serious and dangerous than in the past, when a common rule, often despotic, gave at least equality of servitude. It suffices to recognize how Poland, Jugoslavia, Czecho-Slovakia and Roumania were augmented by many new ethnic elements, and how the prevailing race, which co-operated in the final victory, does not feel the moral and political duty of treating with methods of equality and, what is more important, with feelings of kindness, the minorities which were annexed—not spontaneously in many cases—to the new states. Germans, Hungarians, Lithuanians, Slovaks, Danes who remained in Germany, and the mingled races of the old Turkish empire, etc., are complaining of new oppressions, and majorities and minorities do not seem to understand one another and become pacified. Every minority would like to organize itself into a small autonomous state! And theoretically, if not practically, it follows attentively the ethnic exchange of population which is taking place in Macedonia. There is matter for meditation here on the part of the League of Nations, which could propose some remedy, and also act with a solicitude which corresponds to the gravity of the sufferings and dangers.

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[1] February, 1925.

But there is something worse. Even before the great treaties of peace and of territorial reorganization, less important agreements had guaranteed a true equality of moral, social and political treatment to religious minorities. It may suffice to recall Article 44 of the Treaty of Berlin of 1878 which was specifically applicable to Roumania, a country which, together with Russia, still persecuted the Jews in mediæval fashion. We wish to reproduce here the text of the article as a prayer and an admonition to the League of Nations: "Absolute freedom of worship shall not be denied to anyone in Roumania; no religious belief shall be a bar to the enjoyment of any political right, to the admission to public office, functions or honors, or to the practice of the various professions and industries in any locality." Now as history teaches us, religious persecutions against minorities are even more terrible than ethnic persecutions, and of this we have repeatedly given the fundamental reasons. If the League of Nations felt disposed to investigate the religious persecutions inflicted by majorities on minorities, in spite of the appearance of political equality, it would succeed in saving millions of men oppressed by the most opprobrious persecution. It could study, for example, the condition of the Jews in Poland (two and a half millions out of a total population of twenty-eight millions) and inquire, not into the appearance but into the substance of their condition. Then we would have reliable data on an exceptionally grave situation.[2]

We stop at this single example, but we could well multiply the series of renascent oppressions of other creeds, especially of the unhappy people that is expiating Armenian patriotism and the hereditary Catholic religion.

This appeal to the League of Nations issues from our heart rather than from our mind, but those who direct the destinies of the League may well think of the infinite evils to which ethnic or religious persecutions may give rise. These persecutions are preparing future rebellions, which from their nature would constitute a new disgrace for our vaunted civilization.

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[2] In Part V of this volume the reader will find a summary of the situation.

II

CONSTITUTIONAL STUDIES:

THREATS AGAINST THE LAW OF GUARANTEES AND THE DEFENSE OF ITS INVIOLABILITY

DECLINE AND REVIVAL OF PARLIAMENTARY RULE [1]

CONSTITUTIONAL law, in so far as it regulates parliamentary rule, appears to be every day more a liquidated science. The inferior types of Italy, France, Spain and Austria-Hungary, to say nothing of the perpetually diseased republics of Central and South America, help to sustain this severe judgment.

Truly those branches of science which are called moral and political, according to the antiquated but expressive designation of the French Institute, are all struggling to-day with greater or lesser intensity against crises of dissolution, according to some, of fecund and creative transformation into more elevated forms, according to others. In this gigantic controversy we find reverberations of the conflict between the experimental method of observation applied to social science and the old deductive and ontological method which is not yet resigned to death; and the disciples of the two schools are encamped against each other.

Imagine, in the field of natural science, the partisans of Aristotelian entelechy and of fantastic synthesis resisting the followers of Bacon and Galileo in the seventeenth century, and you will hardly gather from that an idea of this painful labor of the minds of our day in the study of the so-called moral and political science.

This recalls to my mind the anecdote, full of mordant philosophy, of that German student who attended at the same time three separate courses in economics at the University of Heidelberg: one conducted according to the principles of the classic school, another by the historical method, and the third according to the new doctrines of social democracy. In the morning the student came out of the lecture room happy and convinced of the existence of economic laws, fixed and constant, which govern the production and distribution of wealth through spontaneous harmony and elective affinities. Therefore that part of human happiness which can be achieved in this vale of tears in the material order issues from economic freedom, as from a perennial source. At midday the second professor, who belonged to the historical school, to be more exact the glorious leader of that school, Professor Knies, taught that there is no such thing as normal and stable laws, there being only wavering categories in perpetual evolution; therefore truth, that is to say to-day's necessity, would be judged to-morrow's error. History explains and justifies the economic facts; but their laws change with the perpetual change of society. Later in the day our bewildered student heard the hammer blows of the Marxist professor, who foresaw the new social order arising in a kind of pantheistic collectivism from the ruins of the old political economy.

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[1] Introduction to the course of Constitutional Law in the University of Rome (January, 1899).

An Italian student, more unconstrained and flexible, would not have taken all that too much to heart, but the Protestant conscience of the young German was troubled to the verge of insanity, and he ended by asking of theology the peace that was desired by his agitated spirit.

It is certain that among the moral and political sciences economics and the law of nations, connected by so many ties (it will suffice to think of the intimate relations between the distribution of economic power and of political power) are the most strongly attacked and opposed in their essential principles as well as in their aims and applications.

Just as in our day it is noisily denied by so many schools of economics that human welfare may follow from the loyal competition of individual interests, moderated by liberty, and the action of the state is invoked for a more equitable production and distribution of wealth, so it is denied that the political greatness of nations may be made to issue from the conflict of political parties struggling for power in the name of different or opposed programs in parliament.

The era of legislative bodies is declared to be closed, like that of individualistic economy, and their respective destinies are almost made to resemble and join each other in their splendor and their decline. Every economic phase has its reverberation in a political phase, every economic danger creates its political right.

The formation and distribution of wealth determine the formation and distribution of political power. That which is called parliamentary government, and the constitutional law which rules it, were the external effect of two political parties which represented respectively the soil and industry and movable capital; wealth accumulated, according to these writers, by class monopoly.

While landed property prevailed in the economy of nations, it prevailed also in their political life. Later on, and by the aid of forces of democracy, there came to parliaments the representatives of industry, since the ripe economic moment designated them for political victory. This determines the golden age of constitutional law associated with the régime of liberal economy. But to-day a third element has appeared upon the political stage; the true and authentic people appealed to alternately by landowners and industrialists, disputing between themselves. The representatives of industrial wealth invoked and used the aid of the masses when they fought in England against the corn laws, accusing these measures of starving the people to the exclusive advantage of landowners. The latter used the masses against the manufacturers, who were accused of wishing to decrease wages, with the apparent pity of their apostolate for the table of the poor exempt from taxes, when they promoted the factory laws for the protection of workers, thus avenging themselves upon those who had diminished their privileged income by the abolition of import duty on cattle and grains.

Upheld in turn by agrarians and industrialists, the masses to-day feel stronger than their old protectors. Appealed to for the convenience of the latter, they are not resigned to going back to their old position, and as they are intent on destroying the old economic system they also strive to destroy the old constitutional law. Under the influence of universal suffrage a new economic law and a new public law are elaborated by the intimate virtue of spontaneous forces. That is how our opponents reason! And the propagators of such terrible novelties strive meanwhile to wear away political economy and public law with a minute, cutting, pitiless criticism which may even seem—in the present political decadence of men and things—irrefutable in several substantial points. From the illicit fortunes made by coalitions and rings of grain producers or stock exchange speculators to the scarcely less scandalous coalitions of politicians in parliament for the conquest of power, how many pages are there full of shame and sorrow?

What has not been said against political institutions modeled on constitutional law?

It has been said that they have taken the place of despotic rule and have not improved upon it; that several irresponsible despots have taken the place of a single despot, who sometimes paid the penalty of his crime with the loss of his head or exile in foreign lands; that parties degenerate into factions, and factions into cliques and camarillas. In this way the struggle on account of duty is transformed into a struggle for power; the majority designates the government, but the government artificially created the majority to keep up its rule. There is no longer a place for honest freedom, because the old régime did not permit newspapers to be published, or allowed them only under strict censorship. The new constitutional régime buys as many newspapers as it can, and substitutes for reality of servitude the dangerous appearance of a formal freedom of the press, which remains in the hands of hired writers or of demagogues preaching violence, the latter being the fatal antithesis and to a certain extent the supreme protest of a rotten system.

Therefore the best men gradually abstain from any interest in public affairs; the dark days of the politician arise and the golden era of statesmen sets. The nation withdraws from the government, and revolutions—which arose in the past from despotic governments, when the people were tired of suffering and serving—are fed to-day, for the same reasons, by parliamentary rule. Corruption, despotism of majorities, subordination of justice to the interests and the whims of ephemeral rulers, cause the same effects as were produced by the old régime. Against the latter, with the purpose of bringing it down, Beaumarchais attacked the government of his day in his famous play, which was the forerunner of the French Revolution; that government which selected the worst adapted men for office, and chose a dancer where a mathematician was necessary. But how many times have we observed the same procedure under parliamentary rule? How many dancers have occupied positions where wise talent and firm character were required? And at any rate even in the least faulty parliamentary rule—our critics add—there can only be class legislation, that which is satisfactory to the middle class.

The reason for this is that the two principal groups, that is to say the representatives of landed property and of capital invested in industry, have become aware of a new danger arising after their historic struggle. They have formed an alliance against their common adversary, the proletariat; and they dictate laws of social defense and conservatism which assume the appearance of protection of the social order but which are really only protecting their interests. Is it to be wondered at, that we find ourselves on the eve of an economic and political revolution, which will sweep away the new parliamentary régime as it has swept away the old despotic rule?

The gravity and seriousness of this criticism ought not to be belittled; only vain or contented men—who are usually also the greatest culprits—or those who treat the formulas of a science as a catechism, can refuse to recognize it. But let us see if it is possible to get a clear idea of the present condition of men and things.

At the end of the eighteenth century the nations of the European continent redeemed themselves, at the same time, from the economics and politics of the Middle Ages. They expected happiness from economic and political freedom, and for that reason they proclaimed the truth thereof. All evil had its origin in despotic governments; according to Rousseau's famous definition the people emerged from the hands of nature essentially good, and the tyrants had spoiled and corrupted them. Therefore, absolute rule in any form being destroyed, the people sang hymns of grace around liberty poles in expectation of a universal happiness which, however, those unhappy men invoked and awaited in vain. The people, in changing their political garment, do not change their hearts; the monarch and oligarchy represent its vices and its virtues (perhaps the virtue a little less and the vices a little more) in the same way that parliamentary and liberal rule—which are mirrors of what is fermenting in the heart of a nation—represent, under certain happy conditions, a little more the virtue and a little less the vices of the people. But from Biblical times to our day the people, an essentially selfish organism in its normal state when it is not moved, in the epic moments of its history, by the sublime madness of religion, country and humanity, is inclined to attribute its woes to some one or something extraneous to it. This some one was formerly the despotic monarch of the old régime, and to-day it is parliamentary rule, which must in its turn absorb the shock of all the attacks and all the insults.

Even free and representative governments cannot perform miracles; they cannot change into virtue the vices of nations. But do they really show themselves powerless to cure the worst evils? Is it true that they are worse than absolute governments, because they do not give all that is expected from them? Is it true that they are unable to act as powerful instruments of civilization? This is the *punctum saliens* of our research, this is the principal one of all political problems.

We must not restrict our inquiry to the degenerate types. For the great purpose of judging the intrinsic attitudes of constitutional institutions and their natural effects, it is necessary to observe them where they evolve in genial and propitious surroundings. How can we, for example, inquire into the effects of religious freedom in those countries where religious consciences oscillate between superstition and atheism, and where this most precious of liberties cannot find the way to perform its task with the spiritual competition of different churches, active and fervid in the conquest of heaven? It is therefore necessary to search for the attitude of constitutional institutions in their most favorable surroundings, with the supreme aim of ascertaining the quality of their fruits.

There exist chosen nations that bear in their conscience the great qualities which may redeem the world. The ancient Hebrews matured in their religious souls the God of civilized people and the new moral code; ancient Greece created the beauty of art and philosophy; Rome created law. Our civilization is the logical product of these supreme human powers, of Hellenism and Christianity reconciled and fused together. The centuries have grafted the roses of Hellas upon the thorns of Galilee.

The British nation has made concrete the ideal of political freedom and parliamentary rule, and demonstrated the effects of which they are capable. For this reason the British belong to the chosen company of creative peoples.

Two kinds of political constitutions govern the states that are called free: the abstract and the historical. The historical constitutions are organic, evolving and perpetual, in so far as perpetuity is granted to human institutions. The abstract constitutions are mechanical, desultory, not seldom fleeting.

The most resplendent example of organic constitutions, spontaneously elaborated, which live and prosper through native virtue, is offered by England. There we have a living political organism which unfolds itself through the centuries.

Just as medical science searches in our day for the essential rudiments of the human organism, and recognizes in the cells, in natural force, or in other primitive cells, the initial conditions of life, the science of constitutions searches and examines with subtle care the organic cells of the political organization of nations which potentially contain their successive evolutions. The history of the British constitution is developed through an organic process, and offers an example of the continuity of life.

In the family of civil and political institutions two organisms excel over the others, two organisms which have perfectly and completely expanded with the law of the continuity of life. These are Roman law and the British constitution. In the same way as we pass from the rigorous precepts of the Twelve Tables through successive and slow transformations from the prætors and other magistrates to Justinian's codification, so did the inhabitants of the British Isles pass gradually from the rites and customs of the Jutes, the Angles and the Saxons, in the Germanic forests and in Kent and Essex, and the ordinances of Edgar and Ethelred and Magna Charta, to the petition of rights and the electoral reforms of 1832, 1867, and 1884.[2]

The truth of every idea and every institution, in Roman as well as in British law, consists, in successive periods, in their different degree of perfection. It almost seems as if the essential political elements with which the centuries weave their woof and web are substantially identical and differ only in a different endowment of wealth and maturity. This is what gives us the character of those historical documents. In England as in ancient Rome every new fragment, and every historical discovery, fixes and determines an unknown point of the great living organisms, and only the political and economic history of the republic of Venice approaches those two stupendous types. The nations which proceed in their political life in a desultory manner through the action of institutions that are the reflection of others and are not spontaneously elaborated have many pages in their history which are superfluous or illogical, without a natural interpretation in their political life.

The documents of the peoples that develop organically are all essential. The one illumines the other; the chronological order reveals also the natural order. The historical process is the life process. On the other hand, the constitutions modeled upon the French type of 1789 can be better understood and commented upon juridically than historically. If I may be permitted to express my thought in this way, they represent historically a reaction against their history. Here we have constitutions that are rational and too often artificial, toward which the approval of the people is not instinctive, because they are not historical and consecrated by time but reflected, sudden, one might say, borrowed. Thanks to them men pass rapidly from the dark night of servitude to the dawn of liberty, and they abandon the historical titles which recall and almost sanction political subjection. They entrust themselves with the ardent faith of youth and enthusiasm to the abstract title of human reason. This appears to be eternal and is in reality fragile, and it suffices to think of the thirteen constitutions of France from 1789 to our day; and the series is not positively closed. There is a story about a foreigner who was looking in France for a copy of the French constitution, and who was told by a witty bookseller that he did not keep periodical publications in his shop.

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[2] See William Stubb's notable works on the origin of the British constitution.

France, this beautiful and dear country, rich in all generosities and all glories, to which Italy and so many other nations owe their liberal institutions, has not known as yet how to organize her political life in a stable manner. One would say that only one greatness is missing in her political history, the greatness of the organic organization of constitutional freedom.

In the working out and in the study of these statutes, which are fathered by human reason, perfect in their external form and polished in all their parts, the science of publicists and lawyers prevails over the commentary and interpretation of popular conscience; the former loquacious in measure and éclat, as much as the latter is mute and inexpressive. The political history of France is composed of detached sheets, and it is not possible to explain 1789 by correlating that period with the past, except by way of antithesis. But the constitutional history of England resembles the sheet of a continuous machine. The best treatises of English public law, from Blackstone to May, from Gneist to Todd and Stubbs, are histories of the constitution, just as in the expansion of Roman law the scientific process of justice is ordered. The reality of an idealistic hypothesis proclaimed by a bold philosophy has never been better verified than in those two miracles of history. History, that is to say life, evolves science, and science is echoed in history. The English people, deriving a political institution from their conscience and successively developing it, create and establish—unaware of their greatness, as happens with the true geniuses of humanity—constitutional science. The Roman prætor, passing a sentence, perfects a juridical institution and sows in a sacred soil the fruitful seeds of future codes.

This is what gives rise to the distinction between two kinds of power in every political order: that which is constituted, which produces the various offices of the state and is—as it were—its external architecture, and the organic power, the inner virtue, which truly feeds and sustains the life of nations, and which resembles in the political order the Unknown God pointed out by St. Paul to the Athenians.

In order to understand the British constitution in its successive evolutions, it is necessary to explore the inner soul of that people, positive and imaginative at the same time, intolerant of every spiritual yoke and yet disciplined, who themselves perfect, through intimate and hidden virtue, their God and their political régime, who never lose their individuality in local or state associations, who use freedom for the realization of their ideals, who have never entirely forgotten the law of solidarity connecting poverty with wealth, culture with ignorance, who place above every other thing the cult of justice, inexorable toward the powerful as toward the humble, and never forget their rights because they take care of their duties. Rights and duties cannot be memorized, as is done by the nations that have written constitutions, and study them as children study the catechism, but they are lived, they are suffered, they palpitate in the human conscience, and are seen like the light and breathed like the air, which surrounds us.

Those who could thoroughly study and understand all the secret activity of these institutions would get at public life in its mysterious processes, in its innermost recesses, and would get at the central point and instant at which the political word becomes incarnate. And then the greater part of the criticism with which our discourse began is attenuated and elided.

Let us examine some of the fundamental aspects. In England the exercise of the vote has always been considered a *function,* and not a natural and universal right, and therefore it has evolved with history. The exercise of the electoral function, the participation in sovereignty, follow the economic and political aptitudes of the principal factors which constitute the life of the nation. That period which begins with the end of the eighteenth century and goes to 1832 marks the first victory of the electoral evolution of the most cultured middle class, and prepares for the participation of the great industrial centers in the government. Men like Peel, Cobden, Bright and Gladstone come into competition with the representatives of aristocracy and landed property, and they give new glory and a new light of greatness to England. The moral and economic education of the working people is initiated, and that part of the population is being prepared for political sovereignty. When the new sovereign feels strong enough, not through formulas of natural and abstract rights in a philosophical manner but following the historical evolution of the land, he obtains in 1867 the first electoral reforms which enroll the most capable workingmen among the voters. In 1884 the new franchise is extended to country districts.

But—a new thing and one which must be noted carefully—the new participants in power do not bring into the House of Commons the ire of the French, German, and Italian proletariats, because they are compelled to acknowledge that even before their entrance into Parliament, even before 1867 and 1884, the higher classes who occupied the legislative chambers had legislated for the advantage of the masses even when their direct representatives were absent. Class legislation did not issue from the changed Parliament; what was prepared there was essentially national legislation, with evident tendency to favor the weak and the poor. Indeed the great laws which emancipated labor, granting the right to strike, began in 1824, and were completed in their fundamental aspect before the reforms of 1867 and 1884. All the factory laws and the laws regulating work in the mines which interpose a provision of equitable protection between workers and owners, and prevent the latter from exploiting the former with exhausting, precocious and unsanitary labor; all the provisions in favor of popular savings and coöperation, came before the entrance of the workers' representatives in the House of Commons, and the same may be said of all that concerns measures of moral and intellectual education. Finally, the British Parliament, the landowners and the captains of industry, have given the shining example of a middle class which taxes itself and frees the working class almost entirely from taxation. In fact we go from the abolition of the tax on salt in 1824, through the abolition of the duty on grain in 1884, on meat, clothing, and sugar, to the fiscal exemption of workingmen from the income tax. The British workingman pays only those taxes on tobacco and alcoholic beverages from which he can save himself by temperance.[3]

Here the soul of a great and prudent people has found in Parliament the means which could change pure aspirations into facts; here the irony of the jeering critic, with which this discourse was initiated and which accuses the parliamentary form of government of producing inevitably class legislation discriminating against the poor, dies on his lips, and if he is sincere he is compelled to change it into a hymn of benediction.

From this lofty example we descend to another which is perhaps of humbler aspect but which is no less important in the full development of our thought. One of the most effective and insistent accusations against parliamentary rule is that it helps, through organic and essential defects, the bad administration of finances even more than the old régime, which could find a Sully, a Colbert and a Turgot; while in the democratic governments of our day the politicians in parliament incite one another to new expenditures, and in order to win the favor of the voters launch costly and often sterile public works which exceed the taxable possibilities of the country.

Who thinks of to-morrow? To-morrow the ephemeral cabinet government may be swept away; to-day it can live only by yielding to the multiple undertaking of expenditures proposed by members of parliament, who violate with silent complicity the weak sense of decency of the political parties, and exchange favors by misuse of the public treasury.

In order to enjoy the present they cheerfully mortgage the future. Our sons or grandsons will provide, they say with happy thoughtlessness, unaware that in France, in Spain, and in Italy—to speak only of our Latin parliaments—the mistakes of this kind were so great and inexcusable that they fell upon those who committed them, and not upon their posterity, as they fondly believed.

Leon Say, a man of great talent and very competent in these matters, has clearly demonstrated that M. Freycinet's project of public works, for which five billion francs were to be appropriated, resulted in an outlay of eight billion francs as a result of the expenditures proposed or desired by various single members of parliament.

Gambetta and Freycinet proposed, in order to consolidate the French Republic, to spend five billion francs in public works, partly unnecessary and fruitless; the members of parliament added three billion francs to this amount in order to strengthen themselves politically. And the same thing happened in Italy for similar projects.

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[3] The war has forced a change in all that, but the British nation will eventually go back to the just pre-war conditions.

Après moi le déluge, said a king of France, who saw a flood coming as a necessary catastrophe and as an atonement for so much ignominy as the monarchy had produced. *Après moi le déluge,* say the modern kings of parliament, and the flood they invoke comes with bankruptcy, with forced reduction of interest on the public debt and with unbearable taxation.

When a house which has the power of appropriating public money for expenses of all sorts is about to be dissolved it knows no restraint, either of decency or of patriotism.

In the discussion of the budget in the early months of 1898, when the French deputies prepared themselves to receive a new baptism in the approaching elections, they asked on their own initiative—in many cases with the most futile pretexts—an added appropriation of eighty million francs for new expenditures, and it was with great difficulty that fifty-two millions could be eliminated. The twenty-eight millions which were voted represented, in great part, the offers that could render propitious to the legislators the wrathful electoral gods.

At that same time such enormous measures of tax relief were requested by the deputies of the dying session that M. Krants, who was in charge of the report on the budget, came out with this statement: "There must be an end to the road on which we are advancing. I must ask the Chamber to vote against this last measure if it wishes to avoid the path of bankruptcy."

"Very well, very well," exclaimed the deputies in a chorus of approval, expressing collectively the same feelings, and then starting again individually their various attacks upon the budget.

Some asked for a frank of two letters a month for those who were in the various state asylums and two postage stamps a month for those in hospitals; some wished to improve certain conditions of pensions to the widows and orphans of government employees, or to the women employed in the state administrations of the post, telephones and telegraph, to increase the indemnities paid to the owners of animals confiscated and killed on account of infectious diseases, and so on. How much pity, how much kindness, what a flight of fanciful ideas moved by the immaculate fervor of saints and apostles! But how much more would the zeal of these new St. Vincents de Paul be appreciated if instead of taking the money from the purse of the taxpayers they paid with their own personal resources!

But is this financial waste an organic evil inherent in parliamentary institutions, or does it only represent a degeneration of parliamentarism?

Let us take, in this truly tragic case, the example of the historical constitution which was developed through successive experiments. The British people have the age-old habit of keeping their public accounts in order, just as they keep those for housekeeping expenses, and they take care of both with the same accuracy because, as Robert Peel once said, the public accounts exercise their influence over the housekeeping accounts of every citizen.

This simple and golden truth has been understood by the British people since the origin of their constitutional history; witness the public institution for the "avoidance of superfluous expenses," and what is written in a little-known book about *The Difference between an Absolute and a Limited Monarchy,* in which England is compared to France. This book, be it noted, was published in 1471. It has now been republished by Oxford University with notable comments, and it gives precious data on the first budgets approved by the House of Commons. They are cash accounts, established like the budgets of the present time; the first, which registers the income and expenditure of the state, is of 1411, the second of 1421, and the third of 1433. That of 1411 registers an income of 48,366 pounds and an expenditure of 64,406, the deficit being 16,040 pounds. To-day the budget of Great Britain exceeds one hundred million pounds, for the state only, excluding local administrations.[4] But, in spite of the enormous difference in the amounts dealt with, the members of the House of Commons passionately strove in those days to maintain a balance between income and expenditures, and a deficit of 16,000 pounds worried them no less than would one of sixteen millions in our day.

The parliamentarians of 1411 found quite clearly expressed in the ancient *witenagemots,* and later in Magna Charta, the instructions about the duty of delegates of the nation who went to the assembly to grant the subsidies requested by the crown, to inquire into their use and to try to diminish, not to increase them. It is an historic and golden habit, transmitted by tradition from one Parliament to another, that the crown asks for the approval of expenses and for the taxation that is needed to provide for them. The House of Commons inquires into both expenses and proposed taxes. They can and they should diminish them if necessary, but they cannot and they should not increase them.

The habit of inquiry into the budget, the feeling of the necessity for balancing outlay with income, the horror of indebtedness and of prodigality with the people's money, accompanied by the useful restriction which denies to the members of Parliament the initiative in expenditure, were maintained intact during centuries, and the speaker of the House, when it is assembled as a committee, calls to order any member who proposes an increase of expenditure. More than once the leaders of the majority and of the opposition had to interpose their authority in such matters, and thus a constitutional jurisprudence was established which saves Great Britain from misuse of state funds at least as much as does decentralization, thanks to which the greater part of public affairs does not come into the province of the state and of Parliament, but is rightly entrusted to local bodies and the free initiative of the citizens.

A member of the House of Commons, Mr. Vincent, once submitted a motion which affirmed the necessity of increasing the military credits for volunteers. Gladstone then rose to declare the motion out of order.

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[4] Since the war the budget of Great Britain is several hundred million pounds over the limits of preceding budgets.

> The constitutional function of the House, [he said,] is not to increase expenditure but to reduce it. The executive power alone may examine and determine all proposals that must be submitted to Parliament for military expenses, as for all other kinds of outlay. Parliament has the right to accept, to deny or to amend these proposals; but the constitution does not permit it to appropriate greater sums for the defense of the country than those requested by the ministers. I hear protests coming from the benches of the members of the party which calls itself constitutional. I speak the language of history, the language of the law, the language which the Tories of fifty years ago would have been the first to applaud, and which would have found an echo in their ranks. . . . Attempts are being made to-day by means of popular motions to give the House the right to regulate expenditures, leaving to the government the responsibility of taxation. The confusion of the executive and legislative powers is especially baneful in matters of finance. There would be nothing more harmful than to entrust to different powers the function of determining expenses and discovering and proposing means of payment. . . .

As Great Britain scatters through the world her great constitutional principles many of her colonies have already translated into written laws the beneficent customs of the mother country.

In our research through this constitutional world, full of moral soundness and political value, we find that in the Dominion of Canada and in the state of Victoria, among others, members of Parliament are expressly forbidden to take the initiative in matters of public expenditure.

This is what is written in the constitution of Canada (30-31, *Vict.* chap. 3, sec. 4):

> It shall not be lawful for the House of Commons to vote upon a motion, an address or a plan that apportions any part of the public income or of any special tax to a use or an expense that has not previously been the subect of a message addressed to this House by the Governor-General.[5]

Briefly, there is no error or disgrace of our own mechanical parliamentary institutions that does not find its natural correction or reparation in the political habits of Great Britain, in the measure permitted to human institutions. From Great Britain, from the United States, from the political constitutions of the British colonies, from Switzerland (which also enjoys political institutions based upon historic evolution), thanks to a technically perfect method of observation the science of constitutional law is intent to-day on correcting with new and profound studies the errors of parliamentary government, and modifying the law of nations. The people, taught by unhappy experience, are adopting measures and guarantees against themselves, against the new political sovereignty, in the same way formerly used by sovereigns by divine right.

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[5] See Appendix XV on the Commonwealth of Australia.

Truly the new sovereign is no less fallible than the old one; and he must be made to see the errors of his way, to the point reached by Switzerland, where a popular referendum may annul the laws voted by her legislatures. But who will watch the watcher? Who will control the new sovereign?

The place of the Swiss referendum is taken in the United States of America by the judiciary power, with a federal Supreme Court empowered to nullify, from case to case, the force of government acts and congressional laws contrary to the fundamental principles of the constitution.

The Swiss people are saved from the errors of Parliament by the vote of the people, and the American people by the Supreme Court. In Great Britain the necessity for such supreme acts, which are the effect of political despair, has not been manifested, thanks to an adroit management of Parliament, under the watchful autonomy of an admirably organized judiciary, whose dictates all obey without discussion.

These are all new, delicate and essentially technical problems, which the method of observation, conducted with the criteria of comparison, teaches how to solve or place on the road to a happy solution.

I invite you to apply yourselves to this arduous but highly interesting study with your eyes always fixed upon the luminous examples of the nations that have been leaders in the field of political freedom. Let us try to reproduce in our own constitutional consciousness the sound impulses of theirs.

Italy is among those nations in which parliamentary rule came as a sudden and beneficent apparition. In the same way as the peoples of antiquity received the decalogues and gospels by way of divine mediators, these nations received their political constitutions as gifts from loyal and magnanimous monarchs or from national assemblies. For them the constitution has no history, but is only a code of laws; it is not evoked by the consciousness of the citizens but is simply memorized. It so happens that at times the government or the people forgets its most important paragraphs, and then there are movements of reaction and revolution, so frequent in the south of Europe, in South America and in Central America, thus contradicting the constitutional order which necessarily excludes them. Or it may even happen that these offenses against constitutional order are received with meek indifference, expression of a degenerate or languishing political consciousness.

History teaches that every considerable political change which is not carefully prepared and executed is accompanied by a stronger dose of anarchical or despotic elements and of phenomena which are opposed to order, liberty, and constitutional order.

Those peoples that did not find at home a heritage of sane traditions or that have lost trace of them ought to pursue with religious care the study of nations which possess a perfect and complete organic evolution of freedom, and particularly Great Britain, which perpetuates—while changing their forms—the essential conditions of her institutions, not only among the nations of Europe but also in the new continents, exuberant with life and which may be called with Lucretius "the blooming youth of the world."

The more intense and exact this comparative study is, the more it will restrain us from roughly copying formulas and ordinances of other countries, and from a servile reproduction of constitutional paraphernalia which may change their character and effect when they change their locality. Nations should not be treated as if they were photographic plates that reflect with monotonous accuracy the identical image. It is not the form and the transitory accidents that must be caught, but the spirit which has produced those admirable institutions and preserves them in a state of perennial youth; inasmuch as the idea will become ours when we are able to understand its true character, and that spirit will be assimilated to ours when we perceive its action by intuition. Ralph Waldo Emerson has noted that in the fleeting moment when we understand some great writer intimately we become illuminated by the very light of his soul. Considering the history of the British institutions under this aspect I exhort the students of constitutional science to assimilate their spirit, following the example of Cesare Balbo and Camillo Cavour. Those two incomparable teachers of freedom advised Italians to ignore the examples of the constitutions of France and Spain—the only ones known in Italy in 1848—and to draw their inspiration from the British model.

We must gather and piously preserve in the sanctuary of our universities that high admonition and those high precepts of our great predecessors. And those who were able to fight for the redemption of our country must at least not refuse her the facilities for reviving the languishing flame. The generation which is emerging has the obligation to evolve constitutional freedom in a sound way, since thanks to the sacrifice of their fathers they were not allowed to spend their lives in order to procure that freedom. And our fathers, in their solitary graves, would rightly complain about us if, through carelessness or worse, we should abandon the cult and honor of free institutions.

INTERNATIONAL SANCTION FOR THE LAW OF GUARANTEES [1]

THE writer of these meditated pages believes in God who is the Father of all. He has often been accused of mysticism also, on account of his religious-constitutional studies, an accusation this which he believes honors him, feeling every day more the desire to humiliate himself before the divine ideal, among such disgusting spectacles of cruelty and pride as we are witnessing every day. Therefore he is proud of the fact that religious problems are again to the fore in Italy, a country that wavers too much between superstition on one side, atheism and agnosticism on the other. The stronger and more practical countries, like Great Britain and

[1] December 5, 1913.

Germany, are those where research and controversy concerning divinity and philosophy abound. Mr. Lloyd George delivered some time ago a searching address against the British landowners, such an address as was never heard from the British or German socialists, who attack the institution of property more than the persons of the proprietors. At the end of his speech the eminent Chancellor of the Exchequer quoted the Psalmist in an ardent invocation of the day of redemption, and the farmers and members of the peasantry who formed his audience repeated after him in chorus the admirable verses of Psalm 65, the "Song of David to the Chief Musician."

In Italy the speech would have ended with the "Song of the Workers."

But the distinguished orators of the "Catholic Week" of Milan, men of great goodness and worth, and, what is more, honestly convinced of the correctness of their position, must be glad that their opponents answer them, always keeping the controversy high and serene, as we intend to do now, even for the successive speeches of the convention.

Beginning with the subject of *International Sanction for the Law of Guarantees,* the eminent Bishop of Udine, who has recalled the favorable opinion of some Italian statesmen, has forgotten to bring forward the essential points of the grave controversy which was concluded in 1849 at the Assembly of the Roman Republic and in 1870-71 with the absolute exclusion of all foreign interference in the political affairs of Italy, even when the prerogatives of the Pontiff are in question. The law of 1871 has hitherto been sufficient and will be sufficient for the future. Although the church has refused to accept it, it works in favor of its spiritual inviolability.

The Roman Assembly of 1849, after declaring the abolition of the temporal power of the Pope, approved these two fundamental principles:

> The exercise of civil and political rights does not depend on any religious belief.
>
> The head of the Roman Catholic Church will have from the republic all the necessary guarantees for the independent exercise of his spiritual power.

Deputy Filopanti had proposed the following motion, which he afterward consented to withdraw:

> The papacy is declared by fact and by right to have lost the temporal government of the state. All the most convenient, secure, and stable guarantees for the full, free, and independent exercise of the Pope's spiritual power shall be given to him, in accord with the other Catholic powers if convenient and necessary.

The Republican Assembly of 1849 experienced the same generous hesitancies that were present at Florence in 1870. But the jealous feeling of national independence prevailed in those two epochal moments of our history. Agreements with the other Catholic powers, even had they been possible, would have given them the right of interference in Italian affairs through political passions, colored by religious appearance, and would have wounded in the most obvious way the sovereignty of our state. As taught by the experience of the past, all the foreign governments which would like to quarrel with us, even against the will of the Holy See, would take advantage of their right of intervention. The history of Italy is full of such sad episodes!

We cannot place our country in the terrible dilemma of renouncing the great honor of giving hospitality to the Pope in Rome, or of accepting foreign intervention in the behavior of the Italian government toward the Papacy. The last term of this dilemma would be the end of our independence.

This appeared quite clear to the great Italian and Christian intellects who had to face this formidable problem in 1849 and in 1870. The more deeply one studies the Law of Guarantees the better one sees what a monument of Latin wisdom it is, and how impossible it is to find a substitute for it. Under its action the Apostolic Chair changed its occupant twice, with a freedom unknown in the past. The spiritual independence of the Pope spread everywhere, and has never been more respected in the Catholic world.[2]

It will be opportune to recall here a conversation between Marco Minghetti and Bismarck in Berlin. When the illustrious Italian statesman accompanied King Victor Emmanuel II to Berlin, Prince Bismarck was still in the midst of the harsh struggle against the Catholic church. He complained to Minghetti of the Law of Guarantees. "This law," he exclaimed, "has made the Pope inviolable and unseizable, because he has become only a spiritual power. If his temporal power still existed a German warship at Civitavecchia would have rendered him more tractable at once."

And Minghetti dared to answer the German Titan (because those Italian statesmen were courteous in form but firm and courageous in their principles) that these complaints were the best praise of the law disapproved of by Bismarck, which was intended to save the Pope, in his spiritual mission, even from the anger of the most powerful government of Europe.

It is also true that when peace was concluded between the German government and the Catholic church the Vatican asked the former for the restoration of the temporal power, which Bismarck wittily postponed until the time when a republic would be declared in Italy.

This not distant historical episode proves that the Law of Guarantees prevents even the envoys of the Pope from asking the strongest state of Europe for its help to restore the temporal power.[3]

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[2] When a Mayor of Rome failed to practice this respectful behavior I, who was at the time at the head of the government, publicly reproved him—while recognizing his fine qualities—thus interpreting Italian public opinion. See Appendix XVI.

[3] In the volume published by Crispolto Crispolti and Guido Aureli, *La Politica di Leone XIII da Luigi Galimberti a Mariano Rampolla,* there is a report of the conversation between the Pope's envoy, Monsignor Galimberti, and Bismarck. The Chancellor

But Italy is and will always be full of all the patience necessary, profoundly respectful, proud of the tranquil coexistence in Rome of the head of the church and the head of the state, giving the world a new spectacle of supreme political and religious justice.

IS ITALY A SECTARIAN STATE WITH AN ESTABLISHED CHURCH? [1]

THE state, secular and not atheistic, incompetent in religious matters but with an ethical and idealistic purpose, capable of giving a juridical government to the different churches, as happens in the United States—this is the doctrine which I have been defending for nearly fifty years, facing the opposition and sometimes the insults of both clericals and anticlericals, depending on the occasion. Clericals and anticlericals believe themselves encamped against each other, divided by insurmountable barriers. But they do not perceive that they are equally half-blind, begotten in fraternal hatred by the same perverse mother, intolerance. We must resist fearlessly both of these forces. The first drags us toward a sectarian state, that is to say a state subject to religion, the other to the state exercising tyranny over religion.

What is, intrinsically, the Italian state? Sectarian or secular? And if secular is it incompetent in matters of faith, while profoundly respecting the church? How was the first article of the Italian constitution modified in our political-religious legislation? In the course of public law which I have been conducting at the University since 1867 I have demonstrated, in a way that has not as yet been disproved, that immediately after the promulgation of the constitution two currents of interpretation were observable, one which aimed to free the state from every confessional subjection and the other that wished to connect the state with the Catholic church. The great interpreter and defender of the lay state was Cavour, the Italian who felt and expounded better than any other European statesman—even better than Gladstone—the sublime principle of absolute religious freedom. Before the constitution was proclaimed he wrote to his cousin Madame de la Rive, on February 13, 1848: "*J'espère que notre Charte consacrera la principe de la liberté religieuse. S'il en était autrement, je ne renierai pas ce principe que j'ai professé toute ma vie.*"

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illustrates his subject: "The Triple Alliance was a defense against foreign aggression, and therefore left the Roman question entirely free." He added that only thought of the Pope had kept him undecided whether to conclude it. "If Italy were to give Rome to the Pope no one would be more glad than the Chancellor, because once the conflict between the Pope and Italy were ended Italy would be stronger." If he then saw the republican idea prevail and Italy turn toward a republic, and therefore toward France, he would not hesitate, not only to favor the return of the temporal power of the Pope but also that of the old Italian sovereigns. The papal envoy insisted, and Bismarck answered him, "I understand that without a territory there is no independence and there is no real sovereignty. But *chaque jour à son travail*."

The papal envoy also advanced the hypothesis that the antagonism between the Italian government and the papacy would have been rendered more acute by the law of divorce, etc. (Pp. 133-134.)

[1] December 15, 1913.

And the newspaper *Risorgimento,* which reflected Cavour's idea, had this to say of the new constitution:

> But religious freedom is not expressly recognized, and for this side of the question we declare that the constitution is not such as we would have desired. However, this seems to us to be more a matter of words than of facts. The emancipation of the Protestants (Waldensians) has caused a part of the objection to the first article to disappear. We do not doubt that the coming emancipation of the Jews will reduce this article in practice to a simple tribute to the Catholic religion, and under this form we approve of it heartily. . . . The full political and civil emancipation of the Jews, the Waldensians, and of the adherents of all other creeds is in fact related to the Piedmontese statutes, which remove every doubt by the law of June 19, 1848, declaring that differences of creed shall not be a bar to the enjoyment of civil and political rights and the admission to civil and military offices.

Thus was the lay state born! It took thirty-five years for Great Britain, from 1848 to 1883, to reach the height of the Piedmontese statutes, extended through Italy, and even to-day Great Britain preserves some antiquated discriminations. But in spite of the Italian organic evolutions, which are the most democratic of Europe, the constitutional idea of religious freedom was not completely satisfied. It has been perfected, following Cavour's though, especially in 1871 with the Law of Guarantees and in 1889 with the new Zanardelli Penal Code.

The law of May 13, 1871, on the Prerogatives of the Pontiff and the Holy See, by creating a just privileged position for the head of Catholicism and putting him on a par with the king as to the inviolability of his sacred person, could justify the suspicion that free controversy in religious and philosophical matters was to be restricted. This led to the last paragraph of Article 2, the constitutional significance of which is evident: "The discussion of religious matters is fully free." But this is not enough. The old penal code still distinguished between the dominant faith and the tolerated creeds. The new code, published on June 30, 1889, causes this discrimination against religious freedom to disappear, and speaks only of "crimes against the freedom of religion," in contrast to Article 1 of the constitution. And the creeds "admitted in the state," of which the code speaks through the commentary of the reports which precedes it and that of jurisprudence, does not mean a creed recognized by the government, but one that is freely introduced in the state. Thus Italy placed herself at the head of the constitutional countries of Europe, and Article 1 as Cavour's mind has understood it, remained and remains a just tribute to the Catholic religion professed by the great majority of the Italians, but does not recognize any preferential privilege for it. We should have wished that all these considerations had not escaped the attention of the distinguished orators who spoke at the Catholic Week in Milan, and asked for the integral application of Article 1 of the Italian constitution, still in full force according to them, because they also declared that the constitution cannot be touched.

This assertion is inexact, because our constitution belongs to that group of charters which are modified by simple legislative methods, without the necessity of convoking a national assembly.

Thus far Italy has set an example to the civilized world of a nation equally distant from the radicalism of lay intolerance and the reaction of religious monopoly, and it is my fervent hope that she may continue perpetually in this position. We do not feel the need of a *kulturkampf,* nor do we wish any kind of clerical domination in our country.

The orators of the Catholic Week asked that the Catholics be treated like the socialists and the liberals in the technical councils of the state, and especially in the Council of Labor. They are right in that, but we shall say later how this end may be reached in a constitutional manner. There ought not to be before the state Catholic, socialist or liberal workers, but only workers without any added political epithet.

THE THIRD CONCLAVE AND THE LAW OF GUARANTEES [1]

IT is the third time since 1870 that the conclave meets in Rome for the election of the Pope under the guarantees of the law on the Prerogatives of the Pontiff and the Holy See. That organic law has been called "a monument worthy of the old Latin wisdom," and the more it is tried the more it shines in its efficacy and adequacy.

The Third Conclave meets while a European war is going on, a war which sends its livid flames even to Asia and Africa and threatens to take in the whole world. Here we find occasion to see how clear and just were the observations made about the Milan convention called together by the Catholic Week. In those meetings, in which the end of the temporal power was indirectly accepted, the report of the Bishop of Udine contained a request for a pledge of international character for the Law of Guarantees. This I opposed, because such a proposal attacked uselessly the sovereignty of the state and did not achieve the desired end, exposing the papacy, as it would, to the dependency and the uncertainties of international politics.

When I was then writing in this way I was surely not thinking that events of the gravest character would come so soon to justify me. Not only would the international pledge of the European governments be broken by the war, but it would also occasion suspicion, interference and vexation from the states that are now in conflict, desirous only of destroying one another. On the other hand, under the regulations of the Italian law Pope Pius X excluded, by a prudent provision, every interference of foreign governments in the conclave, having in mind the course that the emperor of Austria-Hungary had exercised to veto the choice of Cardinal Rampolla.

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[1] September 1, 1914.

But there is more, in the midst of war, cardinals belonging to countries that are fighting each other find an inviolable and serene asylum in the Conclave of Rome, and they find it under the protection of our government, compelled by the law of 1870 (which must be obeyed in war, in peace and in neutrality) to observe the most absolute respect for the personal liberty of the conclave and the cardinals.

Let the eminent prelate who invoked an international character for the Law of Guarantees suppose for a moment that the temporal power of the Pope existed to-day in Rome under the guardianship of the principal Catholic powers. The freedom of the election would then be gravely disturbed by worldly influence, similar to that which would be operative if the collective guarantee of the different states were to substitute the temporal power, as it was in the hypothesis of the propositions made at the Milan convention. Before this infernal war everything appears inferior to a law freely granted and guarded against infraction by the Italian state, and which only lacked—to demonstrate its full efficacy—this last experiment of functioning in the midst of the most terrible conflict that history registers.

The Third Conclave is now meeting, excluding for the first time the old influence of the veto pronounced by some states and other kinds of foreign interference by reason of the provision decreed by Pius X, and under the guarantee of the law of 1871 which renders the Pope inviolable in the exercise of his spiritual functions.

The civil and political wisdom of those eminent statesmen who conceived the plan of coexistence in Rome, capital of Italy, of the head of Catholicism and the head of the Italian states, is seen now shining with a new splendor. And it will not be useless to recall the historical episode of the conversation between Marco Minghetti and the Prince Bismarck. The latter, who was in the midst of his titanic struggle with the Catholic church, complained to Minghetti, who had accompanied King Victor Emmanuel II to Berlin, of the Law of Papal Prerogatives. The Italian statesman asked Bismarck for the reasons behind his complaint, and the Iron Chancellor answered: "If the Pope were still the possessor of the temporal power it would only have been necessary to send a German warship to Civitavecchia to put him at the discretion of Germany; but now your law has made him inviolable in fact, because he is unseizable."

Marco Minghetti, who took such a considerable part in the framing of the Law of Guarantees, collaborating with Cavour in 1860 in the secret negotiations with Rome, rejoiced in his patriotic soul because, by abolishing the temporal power of the Pope, he wished to render the spiritual independence of the Pontiff freer and therefore more effective and purer. Bismarck, with his complaint, furnished him an excellent occasion for that. The German chancellor was the only statesman of the nineteenth century who could be compared with Cavour, without, however, equaling him. He was more mighty, but less human. Cavour had no need to deny humaneness nor religious freedom in order to create and love his country. It is true that he could not aspire to the terrible eulogy that was pronounced on the Iron Chancellor: "the most astute fox, the boldest lion; great as Satan, a Satan that is beautiful to contemplate."

But if to-day the Catholic world, which is entitled to full respect, like any other creed, many peaceably elect its Pontiff, amidst the din of arms and the heartrending cries of the moribund, our thought must turn to Camillo Cavour, the purest and most disinterested defender of religious freedom, which is the principal and most essential of human liberties. His great qualities are also echoed in these historic events of the conclaves, which are among the greatest glorifications of the inviolability of human conscience.

THE LAW OF GUARANTEES AND THE WAR [1]

The *Civiltà Cattolica* published in the early months of this year two notable articles about the weakness of the law which guarantees the prerogatives of the Holy See and of the Pope, in case of war. In spite of the usual gravity—which may at times be called heaviness—of those publications they are not without a tinge of sarcasm, and on the whole they deserve particular consideration.

Within the same period of time a small volume entitled *The Pope, Italy and the War,* written by Guglielmo Quadrotta, was published. It has a preface by Francesco Scaduto, the eminent Professor of Ecclesiastical Law at the University of Rome who, disputing *de divinitate,* offers me not infrequently the occasion to differ from his views, without my respect for him being in any way lessened. He is an anticlerical; I am an old liberal, that is to say a follower of a doctrine that is not easy to understand and is still less easy to practice. This doctrine may be summarized in these words: Free churches in a sovereign state. Professor Scaduto and Signor Quadrotta would like to suspend by a decree with the force of law, or by a bill to be presented to Parliament, that part of the provisions of an organic character of the Guarantees which concern the diplomatic immunity enjoyed by the representatives to the Holy See of those states that are at war with Italy.

The joy of the writers of the *Civiltà Cattolica* at this may be easily imagined. They will oppose these impatient requests to the reasons of those who support the Law of Guarantees and will cry: *Habemus confitentem reum!* In fact the *Civiltà Cattolica* had already quoted part of a speech delivered extemporaneously by Bonghi at Naples and containing these words: "Some day there will be a disastrous clash, and then even my law will go up in the air." And the Catholic writer added, "Signor Luzzatti felt the force of this continuous ramming of facts against the supposed 'monument worthy of Latin wisdom' (that was what I had called the Law of Guarantees) and in his article published in the *Corriere della Sera* started resolutely to parry the blow, but failed in his intent. . . ."

The truth of the matter is that the thesis developed in the *Corriere*

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[1] April 25, 1915.

della Sera was confirmed by facts, which may also be quite fallible at times.

The Bishop of Udine, in an address delivered at Udine long before the war, had asked international sanction for the Law of Guarantees. The reasons which prevented and will prevent the Italian state from accepting this proposal were at once advanced, and they are, in my opinion, irrefutable. The same idea had been put forward by Quirico Filopanti at the Assembly of the Roman Republic in 1849, and then quickly withdrawn by him. Last September it was added that the war in which so many Catholic nations were engaged was the clearest proof of the weakness (and this is really evident) of the international sanction. On the other hand, the Third Conclave which took place in Rome after the abolition of the temporal power of the Pope gave the clearest proof of the absolute independence and inviolability of an election, such an independence and inviolability as perhaps had never been seen before 1870. From all the countries of Christendom, especially from the countries that were waging war against each other, the Belgian, German, Austrian and French cardinals came—liberated from every veto, free and serene under the protection of the Law of Guarantees. The "monument of Latin wisdom" derived from the unexpected facts an unexpected revelation of its wisdom, as it had resisted the divine and human arguments of those who repudiated it and at the same time enjoyed its benefits. It has taken the incredible catastrophe of an almost universal war to show the strength of that legislative rock, and this was noted by the great Italian statesman Emilio Visconti-Venosta in the last days of his life. Visconti-Venosta, together with Minghetti, Lanza, Sella and others, could well call *his* that law, as Ruggero Bonghi did. Those eminent patriots had taken the fundamental parts of the law from Cavour's negotiations with Rome, by which it was intended to substitute spiritual independence for the temporal power of the Pope. And Cavour himself had found and gathered the essential principles of his idea in Vincenzo Gioberti's *Rinnovamento civile d'Italia,* where the text of the law of 1871 is outlined in a magnificent plan (Chap. 3, Book II). And we could go much farther back, to Dante, to Marsilio da Padova, to all those great Italians who did not want the Church of Rome "confounding in itself two governments," in order that both temporal and spiritual rule might be respected and inviolate.

To go back to the point from which our discourse started, Professor Scaduto asks that if Italy enter the war, the diplomatic guarantee be suspended in the case of the belligerent states for the representatives accredited to the Holy See. But, through that virtue of adaptability which seems an essential quality of the Italian genius, and which is manifested even in things divine, before Quadrotta and Scaduto wrote there was talk of conversations through authoritative interpreters, according to which the Holy See itself would ask the representatives of belligerent nations to leave for the duration of the war. We do not believe that these conversations really took place; but the thought which they reveal has a pacific and conciliatory end which would show that not only is there always a way out of a quandary but, what is more, that the Law of Guarantees appears to be such a monument that can resist—to use the words of *La Civiltà Cattolica*—even this ramming of facts which was destined to cut into it.

All this depends on some premises which cannot be removed without damage to the state and the church. Both must have their seat in Rome in a peaceful coexistence, so that the spiritual independence of the Pope and the organizations connected with this spiritual independence may not be disturbed. From this manifest convenience all the new proposals attempting to weaken (without absolute necessity, which is after all a limit to all sorts of rights) the effects of the law, or to increase it with international bonds which offend the dignity and the sovereignty of the state, are equally impossible, and they are desired only by those who want to drive out of Rome either the Pope or the King, advocates of violence who are fortunately always diminishing in number and in power.

Foreign Representatives to the Vatican and Article XI of the Law of Guarantees in Case of War [1]

My article on the subject of the Pope's guarantees and the war displeased both the clericals and the anticlericals, a thing which is gratifying

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[1] May 3, 1915. This article was published as an answer to a letter by Professor Scaduto which I transcribe here for purpose of clearness in the controversy.

To the Editor of the Corriere della Sera
Sir:

Signor Luzzatti acknowledges that it would be dangerous to keep to the letter of Article II of the Law of Guarantees in case Italy joins the present conflict, and that in the event of such an act the diplomatic immunity granted by the law of May 13, 1871, to the representatives accredited to the Vatican from nations which might be at war with Italy ought to be suspended.

On this point, Signor Luzzatti and I are in perfect agreement. It can be said that there is agreement between all those who have manifested their opinions on this matter in the liberal press of all parties, at least on the point that the danger really exists and is not imaginary. There may be some difference of opinion about the opportunity and the form of a remedy, but that there must be a remedy nobody denies.

There is, as I said, a difference of opinion as to the way to remedy this possible state of affairs, and this is for political and not judicial reasons. That the Law of Guarantees is not an international agreement but a purely Italian statute, which can be modified like any other law, is juridically indisputable. It is not even a constitutional law, that is to say a disposition sanctioned by the constitution of the Kingdom of Italy.

Even if it were it could be modified by the legislative power, or even by the executive power in a case of urgent necessity by means of a royal decree. This is also juridically indisputable; Signor Luzzatti does not affirm it but he implies it in his reasoning.

The question, therefore, remains one of opportunity and policy. Is it opportune to suspend during the war—in the event that Italy takes part in it, and for the powers waging war against our country—the diplomatic immunity of the representatives to the Holy See? Signor Luzzatti acknowledges the opportunity and even the necessity of such action. But he would not wish to have the temporary suspension of Article II made by law or royal decree, in order that faith in the political intangibility of the Law of Guarantees and the sincerity of the pledge given by Italy to respect the freedom of the Holy See in the exercise of its spiritual functions be not shaken. For this reason, aiming on one side to avoid the danger of preserving the immunity and on the other to avoid a modification, even temporary, of the law, with consequent recriminations and charges of lack of sincerity, Signor Luzzatti advocates a solution already advanced by to me. The clericals and the anticlericals believe that an insurmountable barrier divides them, but they are in reality twin brothers, begotten by the same mother, intolerance.

We remain the obstinate defender of religious freedom which protects everybody, and this we do though perfectly certain of the ingratitude of those who enjoy it.

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the press, that the Holy See, in its own interest, ask the envoys to leave of their own volition, under any form or pretext, the territory of Italy.

We have already expressed our belief that the Holy See would prefer this solution to that of the abrogation of the law. But we have also added that this would not be in the interest of the enemy powers, which would have no reason to wish to spare Italy an embarrassment. In case of such a request from the Vatican the governments of those powers would reproach the Holy Father for wishing to reduce himself to the rôle of a chaplain of the House of Savoy instead of being the pastor of all Christendom. They would proclaim the idea all over the world and might even threaten a religious schism.

Even admitting that Benedict XV would succeed in inducing the powers to recall *de facto,* although not formally, their envoys, would that exclude the danger? It would be diminished, but not completely excluded.

No one can doubt that the enemy states would have every interest to embarrass Italy, and it is clear that it would serve their ends that incidents of any kind should arise. Now who could assure you that no incident would arise in this matter, naturally or artificially created, even after the recall *de facto* of the envoys?

To begin with, the recall should be complete, that is to say not of the envoys alone, but of the entire personnel of the embassy or legation. Would the powers consent to that? Even admitting that they would, there would legally remain the immunity of the respective residences, which could be dangerous, even admitting that the entire personnel would move out. Would it be a remedy, as some one has suggested, that the embassy residences be surrounded by troops, preventing the entrance of anyone? The powers would protest, and would be pleased, if Italy were to do such a thing, because this would afford them a pretext for raising their voices against such a violation of the law of nations, and they would be right, because Italy would have no right to violate the law, until Article II had been officially abrogated, although only temporarily.

For these reasons we are convinced that the simplest way is the straight legal one, which, if it were adopted, would break down the fabrication of embarrassment and recriminations—not without legal justification—against our government.

Even in our relations with the Holy See we believe that the straight road is the best. The embarrassment would come, either naturally or created by our possible enemies, not only for Italy but also for the Vatican. But the Holy See could not, or at any rate should not, deny that the temporary abrogation of diplomatic immunity for the envoys of enemy nations would represent a clear necessity, without a shade of offense or insincerity.

Our thought is merely objective, and without any political preconceived idea either of hostility to the church, of so-called anticlericalism, or of hostility to the institutions that govern us, and we believe that all those who are in agreement with us on this matter are also free from such sentiments.

I may add that not only on this occasion but on other problems also I have taken into consideration the human side of the question, not the religious side, as Signor Luzzatti seems to believe. I am a lawyer and not a theologian; and when the juridical problem is connected, as in this case, with the political problem, I limit myself in the latter part to the minimum indispensable calculation of convenience and probability.

My difference of opinion with Signor Luzzatti rests, therefore, only upon this calculation, not also on the juridical side. The elements of the calculation may be erroneous; but thus far I have not seen them analyzed and refuted, and without this analysis and refutation I cannot see that the result is wrong.

I feel impelled, however, to acknowledge that Signor Luzzatti has two great and quite uncommon merits in this question; one, that of sensing all its gravity and political importance, and therefore troubling himself about it; the other, that he has not allowed his eminent present and past political position to restrain him from manifesting his opinion, bringing to the matter his great political and scientific authority without fear of compromising himself.

FRANCESCO SCADUTO

Professor Scaduto has another tilt at the Law of Guarantees, which it has become his custom to attack, and which he proposes to amend just to prove his contention that it is a law like all others; and it seems that he is unaware of the high political convenience of leaving it intact and safe. We agree that it is a national law, and that it can be amended, like every other statutory and organic provision. But it is to the glory and the supreme advantage of Italy that the law has neither been changed nor disobeyed since 1871, and has been respected even when the church denied it with open violence, which was calmed afterward by the wisdom and benefit of time. Undoubtedly if Italy were at war with governments which have representatives accredited to the Vatican she could invite these envoys to leave the Italian territory; but if this invitation, as it is permissible to believe, came from the Vatican itself, animated for different reasons by the same opportunities, then it would be so much the better; and the Law of Guarantees would have successfully met this test. This is the ardent desire of all those who received from their political teachers, from Parliament and from ministers of every political color, the legacy of respect for this law.

Professor Scaduto does not feel this obligation, or does not feel it as much as we do, we who sat at the feet of those statesmen. He is a jurist—a very distinguished one—and this fact causes him to lose the vision of high political reasons which ought never to be lost sight of, if we wish to avoid the baneful conflicts which were in the past the cause of infinite calamities for Italy.

We need now not to be distracted from the supreme national interests; and it does not seem opportune to add in this moment a conflict between the government and the Vatican to the struggle of the defenders of our country's integrity against the socialists. At least it must not be the government which provokes the conflict.

At any rate the statesman who is in charge to-day of the Ministry of Religion is a man who can feel the supreme importance of avoiding a conflict with the church, without lessening the dignity of the state, of which dignity he is a safe custodian.

These are difficult times for Italy, and they do not permit the extravagance of irritating conflicts just to satisfy the pride of the jurists, whose logic is at times more formal than substantial, and therefore sterile.

THE PRETEXT OF THE HOLY FATHER'S VIOLABLE INDEPENDENCE USED TO ATTACK ITALY [1]

THE head of the Catholic group in the Reichstag, Herr Spahn, has not hesitated to try to show that the Pope is under the tyranny of Italy in Rome. His words have found favorable echo in German and Austrian publications, to which may be added the support given him by certain Swiss and Dutch dailies.

Now who cannot see the Pontiff groaning under the unbearable tyranny of the Italian government! What in truth we see is the fact that the highest dignitaries of the Catholic church, the natural collaborators of the Pope, are singing hymns in praise of the Italian victories, and the field of the Law of Guarantees has been broadened by creating new ecclesiastical war positions. The Vatican is also just at this moment enlarging the sphere of its legitimate influence with new embassies and legations.

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[1] August 27, 1915.

Those writers that were mentioned at the beginning of this article are assailed by inexpressible anguish, and are already announcing that at the end of the war the temporal power of the Pope will be reëstablished as a consequence of Teutonic victories, disregarding the fact that the Pope himself has declared, by the authentic interpretation given by the Cardinal Secretary of State to the false interview which generated the vain rumor, that he is not asking for it any more, relying upon the effects of the free civil education of the Italians for an opportune solution of the Roman question.

The most temperate of those foreign dailies (temperate only in appearance) still invoke international agreements of Catholic states, which agreements—as we have more than once demonstrated—even if they were not incompatible with the sovereignty of the Italian state, would hurt the independence of the church instead of bettering it. One of those newspapers insinuates that even Italy has opened the way for international agreements by refusing to accept a motion that the Law of Guarantees should never have an international character, when that law was discussed in the Italian Parliament.

Now on that precise point, upon which those who always wish to plant discord between church and state insist, I desire to point out some facts which are of a precise and decisive character. When Emilio Visconti-Venosta was Minister of Foreign Affairs he was to answer the motion of the Left, either accepting or refusing it. He rose with serene dignity, refused to accept it, and won his point. But since this attitude of his has often been alluded to in subsequent debates I took the liberty of asking him for its meaning, writing to him for this purpose. The eminent statesman answered me by a letter which I treasure jealously, together with many others. Here is the letter, or at least that part of it which concerns the point in question:

> It is true that during the debate in Parliament on the Law of Guarantees I opposed the motion introduced by Deputy Mordini, which forbade every international agreement upon what formed the object of the law. But I thought that a declaration from Italy denying to the Catholic governments any voice concerning the spiritual independence of the Pope and his relation to the Catholic world would be fraught with danger—instead of removing any danger—and provoke protests and reservations from those governments. Given the political conditions of that time it seemed probable to me that the foreign governments—if not otherwise induced by

> our action—would have preferred to leave us to our responsibility, without assuming a certain complicity by entering into negotiations with us on the new conditions made to the Papacy, without the consent of the Pontiff. They intended to intervene only if our conduct compelled them to do so. As for us, it was much better to seek the moral prescription, which is consecrated by time, instead of rousing suspicion and irritating discussions.
>
> When the Mordini motion was read during the examination of the law and at the end of the meeting I made a summary declaration, and the debate, which had been postponed, was resumed the following day. Bonghi delivered an eloquent speech against the motion, and I also spoke. You can find all that in the records of Parliament, which I advise you to examine. In my words, which were few, you will find my reasons for refusing to entertain Signor Mordini's motion.
>
> The debate on the Law of Guarantees was published in a separate volume, which you will find in the library of the Chamber of Deputies. I do not recall whether the volume contains only the general discussion or also that on the individual articles. And I do not know whether the discussion of the motion took place at the end of the first subdivision of the entire law.

The Chamber of Deputies rejected the Mordini-Mancini motion, approving the government declarations with 191 votes against 109. The motion was rejected because it offended the prerogatives of the executive power in a matter of international agreements. But Visconti-Venosta with his diplomatic wisdom did not allow a word to escape him which could be construed as a desire of coming to an understanding with other states on this delicate matter.

The attempt of our enemies who wish to destroy our state, and bring up at every moment this matter of making the Law of Guarantees subject to foreign sanction, is perfectly vain. The law is placed under the guarantee of the Italian government and of the Italian Parliament. In the most difficult moments of our history it was religiously respected, not on account of foreign protests but because such is the clear and sovereign will of the nation. And if the German press continues on this theme we shall feel compelled to bring out the full history of the *Kulturkampf*, which contains also Bismarck's proud recriminations against the Law of Guarantees, which has made the spiritual power of the Pope inviolable and unseizable because it is not enclosed in temporal dominion. In vain did the Iron Chancellor try to make it bend under his irresistible will; it was he who fought and was vanquished for the first time. What would have happened if an international guarantee of the Papacy had been agreed upon at that time?

IN MEMORY OF EMILIO VISCONTI-VENOSTA. STATE AND CHURCH. ITALY AND FRANCE [1]

DEAR FRIENDS: [2]

I deeply regret that the condition of my health prevents me from attending the opening of the academic year at the Institute of Social Sciences.

It was my desire to recall in a brief address Emilio Visconti-Venosta, the great statesman who was for many years the director of the Institute. Bound to him for several decades by ties of intimate friendship, I had occasion to know, during difficult and luminous times of our national history, some memorable events of his political life.

In 1870, when I had the honor of collaborating with the eminent minister in framing the Law of Guarantees, and in 1896, when I initiated with him the agreements of political and economic character with France, I was enabled to see and admire not only the moral qualities of the statesman but also the fine acumen of the diplomat.

The history of the relations between the Italian state and the Catholic church in the years 1870 and 1871 has not yet been written in its minute, and in some points decisive, details, and what is not known of it would, if revealed, redound to the great credit of Emilio Visconti-Venosta.

His patience, which seemed to some irresponsible critics to savor of weakness, was inspired by the most limpid traditions of Cavour. The latter, as soon as he knew him, appreciated him greatly and entrusted to him the most delicate negotiations. Without his sagacious patience the multiple opposition of states adverse to us, which opposed our occupation of Rome, could not have been vanquished.

All of this I trust that I shall be able to demonstrate with hitherto unpublished documents when I shall—according to your desire—commemorate in Florence the eminent man who was such a faithful friend of our Institute. And another point will deserve special examination.

When Emilio Visconti-Venosta again assumed the portfolio of Foreign Affairs in 1896, after twenty years of dignified silence, I, who was his colleague in the Treasury, had a decisive conversation with him about the necessity of resuming friendly political and economic relations with France.

The errors of French policy in Tunis, the violent and inevitable Italian outburst of anger, weighed upon the cordial relations of the two Latin nations, which seemed destined to live divided and to harm each other. Emilio Visconti-Venosta expounded to me his plan of political reconciliation, I told him my scheme for the improvement of economic relations which had been so profoundly disturbed, and in the cabinet of 1896, presided over by Antonio di Rudini, we drew near the great goal, with the agreements in regard to Tunis and to navigation and with the promise of negotiating a commercial treaty, which it was my good fortune to conclude in 1898, when both of us had left the cabinet.

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[1] Letter written for the opening of the academic year at the Royal Institute of Social Science at Florence, November, 1915.

[2] Signor Torrigiani, President of the Institute.

On the day when the commercial agreement with France became public Visconti-Venosta sent me the following telegram: "It is the completion of our work. Political friendship will result from friendly economic relations, and the return of a fatal conflict is made impossible."

In fact in 1899-1901, through the assiduous efforts of Visconti-Venosta, who was again in charge of foreign affairs, the agreements between Italy and France were concluded, and between the years 1904 and 1906 I was able to accomplish the conversion of outstanding Italian loans with the "moral help" of France, a moral help which, had it been necessary, would also have been economic help. Fortunately Italy could accomplish this conversion by herself, but she did so because she was sure of that moral aid.

If Emilio Visconti-Venosta were alive to-day his Italian soul would have exulted in our participation in the war and in the alliance of arms and hearts with France and Great Britain.

The professors and the students of the Institute of Social Sciences, in recalling that dear memory, will honor the country which he served and wished to lead back to its pure origins, with those alliances which signify the triumph of civilization for the protection of great and small nations; and the small have shown themselves heroic and sublime, as in the case of Belgium and Serbia.

Honor be given to the glorious memory of Emilio Visconti-Venosta, whose shade returns to put new heart into Italy.

RELIGIOUS SCARECROW AGAINST ITALY [1]

THE Minister of Justice is to be praised for his defense of the Italian government's ecclesiastical policy and for the rectitude of its relations with the Holy See. His brief and felicitous declarations form the best answer to the Holy Father's allocution which, as can easily be foreseen, will fill the press of Germany and Austria with expressions of joy.

A more irreligious argument than that used by the press in its attacks upon Italy cannot be imagined.

The German and Austrian periodicals are stirred up for the supposedly threatened freedom of the Holy Father. They are grieved, they mortify the flesh and the spirit, because of the tyranny under which the Pontiff groans, and Catholics and Protestants promise each other that after the end of the war they will free Rome and give back the Eternal City to the Pope.

In the sad years when France opposed Italy after 1870 the reactionary party, which then prevailed in the Versailles Parliament and in the government, was also full of pity for the conditions prescribed to the Holy Father, and it is a fact little known that one of the main reasons which induced Italy to sign the pact of the Triple Alliance was the guarantee of the integrity of the kingdom with Rome as its capital.

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[1] December 9, 1915.

Then the French Catholics wept and the eyes of Germans were completely dry; the Austrians hardly shed any tears; to-day the lamentations have passed to the other side of the Rhine and to the banks of the Danube.

Even the *Frankfurter Zeitung*, half Protestant and half rationalist, feels the necessity of regulating the position of the Pope, who, it seems, is no longer independent because he has not near him the diplomatic representatives of Russia, Bavaria and Austria-Hungary. Of course he would be independent if he did not have representatives of the governments waging war on the Central Powers! The Teutonic envoys left Rome of their own volition, and were not stopped by any spiritual gesture; but the Italian government has always respected their status. These vain preoccupations began to appear in the German press not many months after the Vatican Conclave met, in which the dignitaries of the Catholic Church, belonging to belligerent states on both sides, could accomplish the greatest act of spiritual independence on the hospitable soil of Rome, the election of a Pope, which election, free from harm since 1870, was only once disturbed, by the veto of an Austrian cardinal against the election of Cardinal Rampolla, this veto being given by express wish of the emperor of Austria.

Ecclesiastical history is full of incidents—dramatic and tragic at times—against the freedom of the conclave during the time when the Pope was still a temporal sovereign; while the triple pontifical crown transmitted since 1870 has been immune from all direct or indirect violence.

What better guarantee than this, and what evident proof do we find here of the perfect loyalty with which the law of 1871 on the prerogatives of the Holy Father has been enforced!

But the German newspapers—the Bavarians nearly every day—forget that if the Pope were still invested with temporal power he would not have been spared in this horrible conflict, provoked by the Teutonic powers. His territory would have been invaded by one or the other party in the war, subjected to rival influences, as happened so many times. It might have been necessary to hold the conclave outside of Rome, the Pontiff himself might have had to leave the Eternal City, or his personal dignity might have suffered greatly.

The inviolable hospitality of Italy saves him from the inevitable injuries of this horrible war, and here in Rome he sits tranquil as in an impregnable fortress.

Some of those dailies tell us, however, that there is no question of reëstablishing the temporal power. All that they wish is an international guarantee for the law of 1871, as if international law had not been proved to be without sanction, that is to say without effect, by those who violated (and in what a manner!) the neutrality of Belgium.

And even supposing (but what an unlikely, impossible hypothesis!) that the Catholic states could impose on a vanquished Italy an international sanction for the Law of Guarantees, how long would that last?

The signatory governments would battle around it with worldly aims, and at the first breaking out of a new war or at the first spiritual conflict, they would perhaps achieve the purpose of humiliating Italy, but not that of guaranteeing the independence of the Pope.

Italy, through her feelings of homage to the Pope, for the luster deriving from Rome, for the tranquillity of her Catholic population, for the very suspicion aroused by the governments that want to oppose us for a temporal purpose, is more jealous of the spiritual independence of the Supreme Hierarch than his pretended protectors, who change their name according to political tendencies, the most unstable things in the world.

In fact yesterday it was the French, to-day it is the Germans, who are anxious to guarantee the Pope's independence, not through love for him, but through enmity toward Italy. But Italy knows *æquem servare mentem* even in the difficult moments through which she is now passing.

Notwithstanding the fact that the Law of Guarantees made no mention of them, we have seen the institution of ecclesiastical authorities at the front, through indirect agreement of the Italian government with the Vatican. The institution operates regularly, consoling the souls of many men who are fighting for their country and want to live and die with God.

This agreement, inspired by the purest religious spirit, was made by the two powers which the Teutonic press depicts as being at odds on all points!

Were we to search in our personal archives we could find and republish certain articles of the *Frankfurter Zeitung*, which now advocates a foreign intervention in connection with guarantees for the Vatican, articles written against the French partisans of the temporal power when the latter attacked Italy.

The Holy Father should indeed beware of these dangerous friends, who are worse than his frank opponents. How much his recent words can be exploited by the political enemies of Italy, who care much less than Italy for religious ideals!

It seems impossible that there should be so much misuse of the name of God, Father of all people, not alone of those who wish to monopolize Him, and who have the historic responsibility for this terrible war!

TWO CONCEPTIONS OF PUBLIC LAW: IRELAND AND THE PROVINCE OF POSEN [1]

THE latest imperialistic controversy against the Allied Powers illustrated the two different doctrines of public law which distinguish the British and the Latins from the Germans. The Magna Charta, the Petition of Rights, the Declaration of the Rights of Man, all these respect the man in the citizen and the citizen in the man. From Hegel to Treitschke the Germans have been trying to deify the state, and to it they attribute the power to grant or take away that political and civil freedom which is for the British and for us Latins the essence of our individual autonomy. The state must *acknowledge and guarantee*, but it must not *grant*. In the field of international relations the German state is deified, and Germany must become the only nation which can and must make other nations become subject to her. This our enemies affirm with their usual modesty!

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[1] January, 1917.

Two different applications arise from these principles in the action of the state, and they are found principally in Ireland and in the province of Posen. In vain does Germany try to hide her responsibility to the Poles, pointing to the treatment of Ireland by England. But the English people have changed in the course of the nineteenth century the character of their colonial government, through a high sentiment of political dignity associated with a clear vision of their interests, and a régime of loyal freedom and loyal coöperation was substituted for the rigid and absolute form of government which prevailed in the past. If the American colonies had been treated toward the end of the eighteenth century in the same way as Great Britain thought fit to treat Canada, Australia, and South Africa, the British would not have lost the most beautiful part of the new continent. They saw their error, however, and knew how to appeal to that spirit of freedom which their forebears displayed in 1215, and which they never lost through the vicissitudes of their history. Surely their faults toward Ireland were great; but the reparation is admirable. Gladstone took away every privilege from the dominating Protestant church, and assigned its immense property and its income to works of charity and culture. After that, through Gladstone's initiative and by successive provisions full of moral and economic implications, the Irish people were given back the soil of their country, of which they became stable and happy cultivators through large and well-managed financial operations. Both God and the land were spontaneously returned by the usurpers to those who had been deprived of the free exercise of their creed and of the free use of the soil of their country.

What wonder that the Irish are now fighting side by side with the English without the compulsion of conscription, and that the revolt organized in Germany by Casement has had and will have no effect? The Irish people are now, through their coöperative organizations and the new prosperity of the land, among the best farmers of Europe.

The Germans acted in quite a different way in the province of Posen. While Great Britain freed Ireland by granting her that home rule which is a partial restitution of political independence and will have to be made complete some day, heaven and earth concurred in the humiliation and oppression of the conquered people of Posen. The British treasury put at the disposal of the Irish farmers hundreds of millions of pounds with which the old owners were compensated for the abandonment of their landed property. But in Prussia hundreds of millions were assigned to despoil the conquered Poles of their lands and give them to German farmers. The boundary line with Russia was not to remain in the hands of the Poles; violence was indispensable for the protection of the German state, and if indispensable it was legitimate. There was never an idea of imitating the example of Great Britain, of restoring to the conquered people their God and their land. To the provisions intended to take away the land from the Poles and give it to the Germans were added religious restrictions and prohibition of the use of the Polish language. Until the end of 1911, a Prussian government commission had acquired over 150,000 acres of land in Posen for a price of 379 millions of marks. At first it was easy to purchase Polish land, but then the commission was obliged to break up the German *latifundia.* The Poles were becoming suspicious and defended their land. Helped in their struggle by those happy events which faith and patriotism inspire, they not only regained the lost land but exceeded by over 30,000 acres the Polish property acquired by the Germans. The nature of things, racial affinities and hatred of the foreign conquerors, always end by conquering the harshest measures of the most merciless governments.

If the Prussians had behaved toward the Poles as England finally did toward the Irish, they would easily have obtained a salutary political effect. But the destiny of the oppressors who believe themselves all-powerful is never to see their errors, never to repent. Those who attempt to destroy the life of an ethnically different people sooner or later come to lose their government.

EMILIO VISCONTI-VENOSTA AND THIERS. NEW FRENCH DOCUMENTS [1]

THE text of the letters written by Thiers between 1871 and 1873 has recently been published with notes and comments by Gaston Bouniols, in the book bearing the title *Thiers au pouvoir.*

Having known M. Thiers in Paris during the mission entrusted to me by Sella, Visconti-Venosta and Lanza of averting the danger of new French duties on raw materials (including raw silk, citrus fruits, etc.), I have been able to compare with my experience of him the loyal declarations of the French statesman. Visconti-Venosta had recommended to me to stress in Paris the character of our admirable law on the prerogatives of the Pope and the Holy See, and the relations of church and state in Italy, because those legitimists, who wanted to restore the monarchy in France, wanted also the restitution of temporal power to the Pope. M. Thiers, to whom I said that the Italian Minister of Foreign Affairs, Signor Visconti-Venosta, and Signor Minghetti—who were Cavour's most direct political heirs—expected the spiritual renewal of the free action of the Papacy in the world, did not conceal from me his political uneasiness about the protest of the legitimist conservatives. He avoided any argument on the possibility of dividing the two powers, but told me with evident sincerity that he had full confidence in Visconti-Venosta's wisdom and sense of justice. It was in this spirit that he wrote on May 4, 1873, to M. Fournier, the French minister in Rome, explaining to him the "enormity" of the election in Paris, where M. Rémusat, the Minister of Foreign Affairs and one of the greatest French statesmen, had been beaten by an obscure politician named Barodet. Thiers ended his letter thus: "Be sure to convey my sympathy to Visconti-Venosta and his colleagues and advise them not to abandon their work: Italy needs them. . . ." But the most notable point in this publication is the letter with which Thiers answered M. De Belcastel, a deputy of the Right and a militant Catholic who had publicly protested in an address to Pius IX against the "*usurpations sacrilèges de l'Italie à l'égard du Saint-Siège.*" This is what Thiers wrote to the rabid enemy of Italy:

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[1] November 1, 1922.

> My opinion is not changed; I am not the author of the policy which has made possible the unity of Italy, and with the unity of Italy that of Germany. I have thought in the past, and I still think, that France has a great moral and political interest in the protection of the Catholics, just as Great Britain everywhere protects the Protestants and Russia the members of the Orthodox church. But the physiognomy of Europe is changed, all the Catholic powers saw the entrance of the king of Italy in Rome, but I cannot remain isolated, separating myself from Italy, and I cannot compromise our foreign policy. While recommending to the Italians the *ménagements* due to the Holy See, I cannot change the relations of France with the Italian monarchy. Visconti-Venosta, a wise man who understands the dignity of others, *parce qu'il en a beaucoup lui-même*, has felt that France had a special position at this time. . . . All that we can do to insure a bearable position for Pius IX, with the respect due to his personal virtues and to the Holy See, will be done by us; but we shall succeed more easily through the influence of friendly relations with Italy than with inopportune threats, which would constitute a double error against the interests of France.

It took a statesman of a superior caliber in his calm dignity, one whose great abilities were acknowledged by all diplomats, it took Emilio Visconti-Venosta to convert Thiers, or at least to draw him near the full acceptance of the Law of Guarantees. Those who have closely followed Visconti-Venosta's actions from 1870 to 1876 on the Roman question, as I did, who had the good fortune to have difficult negotiations entrusted to me at that time, became more and more certain of his admirable technical ability associated with great moral elevation. When his political opponents accused him of yielding and permitting the international guarantee for the spiritual attributions of the Pope, that is to say of admitting indirect interference of the Catholic states in the affairs of Italy, Visconti-Venosta resisted this principle with all his might, as can be seen from his letter published in the preceding chapter. He was a great statesman on Cavour's pattern, and as sincere a believer as Manzoni. He was for this reason respected by the foreign Catholics who wished to modify our Law of Guarantees, and by the Catholic Ministers of Foreign

Affairs against whom he had to defend that law, proving that Italy had every interest in observing it, and in causing the spiritual independence of the Supreme Hierarch to be respected. And he won, through his unusual qualities, one of the most formidable civil battles that the newly formed nation had to fight. Even Thiers bent before him, Thiers who continued to keep, because he thought himself infallible, his prejudices on the unity of Italy and on the temporal power of the Pope, even when our country shone in her greatest splendor and was installed in Rome, eternal as the Capitol.

PART V

THE DEFENSE OF A PEOPLE PERSECUTED IN ALL THE MILLENNIUMS OF ITS HISTORY

PART V

THE DEFENSE OF A PEOPLE PERSECUTED IN ALL THE MILLENNIUMS OF ITS HISTORY

THE JEWS IN ROUMANIA

HAVING left the church of my fathers, after there had been revealed to my eager spirit the charms of other doctrines, deeply felt, to which I have dedicated so much study and the most severe meditations (veritable oases to my soul), I have kept intact my respect for the Jewish religion, because of the lofty essence which distinguishes it, because it is the faith of my ancestors, because it is the faith which consoled my mother, the faith in which she prayed and in which holily she died. But I become an Israelite again in the face of oppressive persecution and contumely, just as I raise my voice in defense of all believers who are attacked on the most sacred ground of conscience.

So in 1913 and 1914, when our hopes of seeing the Jewish minorities of eastern Europe finally emancipated proved vain, and their plight was becoming more dire and unbearable in the face of so many liberties granted, so many rights won, my spirit rose and I protested, I threatened, I denounced!

Russia and Roumania were the two most culpable countries, and I forgave Roumania even less—that distant but faithful Latin child, the direct descendant of those Romans who were the fathers of law and the founders of that Pantheon that was dedicated to the worship of all the gods! And if because of economic vicissitudes or a deplorable spiritual lapse her sense of justice toward a number of her brothers of different origin had waned, she should not have broken with impunity, at least, a solemn promise which had, in part, determined the recognition of her independence.

In fact, in the treaty of Berlin (1878) the great powers, wishing to put an end to the abnormal situation affecting, among others, the Jews of Roumania, had arranged that Article 44 should be one of the prerequisites to the recognition of the independence of that state.[1] And they had stated it thus as to Roumania:

> The difference of religious creeds and confessions shall not be alleged against any persons as a ground for exclusion or incapacity in

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[1] At Berlin the European states were inspired by the noble efforts of a preceding congress, that of Vienna, during which the most authoritative voices of men renowned in the fields of learning and politics had pleaded for complete emancipation of the Jews in the states of the German Confederation. A great effort that turned out almost vain! See Appendix XV.

> matters relating to the enjoyment of civil and political rights, admission to public employments, functions and honors, or the exercise of various professions and industries in any locality whatever.

An analogous provision had been made for the other Balkan countries, and Bulgaria, Greece and Serbia had observed it. But Roumania did not abide by it; I repeat it in 1925, the denials of my assertions by the press and statesmen notwithstanding, and notwithstanding their astonishment at my outburst of 1913!

So far from being improved after 1878, the condition of the Roumanian Jews has been made worse blow by blow by restrictive laws which robbed them even of those rights which they had theretofore enjoyed. And in thirty-four years following the treaty only two hundred out of two hundred and fifty thousand had been naturalized, all "individually"; the rest were considered aliens not belonging to any foreign state.

What frightful isolation! In every country the foreign subjects have at least the protection of their respective ambassadors and consuls, and the fatherland keeps watch from afar over their treatment. For these unhappy ones no one raised his voice in the days of sorrow, of bloodshed, and of death!

They were not admitted to the offices and functions of the state or of the municipalities; they could not become magistrates, teachers in the public schools, stock brokers, pharmacists, postal clerks, hospital doctors, lawyers, sellers of articles controlled by state monopolies, etc. Freedom of labor was refused them too; the industrial establishments permitted them to enjoy only to a slight extent all the advantages of the law for the encouragement of national industry; they were not elected into the committees of the artisans' guilds, etc. Their children obtained admission to the public schools only after the children of Roumanian citizens had been placed, and even this concession carried with it a burdensome tax. Thus, since the Roumanian schools did not suffice for the ordinary population, it can be said that the young Jews were really excluded from those schools, to the maintenance of which they contributed just as much as the rest. The Roumanian Jews, moreover, could not purchase rural real property, not even a little piece of cultivatable land; they obtained foreign passports with difficulty (law of 1912); their life was rendered most difficult in that country, and at the same time they could not freely emigrate. Poor martyrs, martyred forever! And meanwhile the royal lyre of Carmen Sylva sang sweetly of pity and love!

On the other hand, they had to bear all the impositions, perform all the duties of Roumanian citizens, including military service, while still retaining the character of aliens! I remember that even Georges Clemenceau, in his timely articles in the periodical *L'homme libre*, expressed his disdain, saying that " . . . *les israélites de Roumanie constituaient une monstruosité au point de vue international, puisqu-ils n'appartenaient à aucun pays*" (June 16, 1913).

In 1910 they addressed a petition to Parliament to obtain the rights so long awaited and invoked. They recalled to the Roumanian legislative assembly the declarations of the patriots of 1864; they recalled all the consoling words that Mihai Cogalniceanu (then premier) had pronounced: "The day of brotherhood will be the day of the affirmation of Roumania." And the parliament of that time had recognized the equality of the rights of the citizens and had declared that "the Roumanian would be placed on the level of modern civilization." Things, they added, were near a happy solution when the constitution of 1866 halted the work of emancipation. A few conservative Boyards sustained this movement, but under the influence of a violent movement culminating in the destruction of the Jewish temple in Bucharest Article 7 of the constitution was passed, reserving solely to the Christian inhabitants the right of becoming naturalized. But this article did not at all change the status of the native-born Jews; on the contrary, the rights which had been granted to them by the law of 1864 were recognized as late as 1882. It was only in that year that they began to lose them. Exclusion from the municipal elections began then, giving rise to the gradual loss of all civil rights, and the provision permitting the attainment of political rights was suppressed. Thus there was, on the one hand, a small number of Jews naturalized by the thorny path of individual grants of citizenship, with the anomaly that their children born before the naturalization were considered, even while in their minority, as aliens; on the other hand, all the native-born Jews degraded and reduced to the status of foreigners in their own country, homeless, persecuted, assimilated to the Roumanians only in their duties. They served the king in the army, as soldiers, without being able to advance in rank, to become homeless wanderers again the day they left the barracks. In some cases the parents were driven from their homes while their children were undergoing military service. And all, naturalized or not, were denounced as a dangerous and harmful element.

Imbued by that spirit, the state had not only upheld the restrictive laws of the past but had made new ones, which opened fresh wounds in the tragic situation of that minority.

Such were the contents, and these were approximately the expressions, used by the Roumanian Jews in the appeal they addressed to Parliament. The voice was sincere; it recorded, moreover, a proved loyalty, but the appeal proved vain.

Meanwhile, other and stronger groups of Jews suffered beneath the burden of a harsh government and the contempt of a neighboring people. In Russia five million people belonging to this unfortunate race suffered, forbidden to sojourn in the country at large, forced to live in certain territories, refused freedom, excluded from public careers; for this reason they gave themselves over to the liberal professions, and they had a part share in the operation of banks, of exchanges, of the press. The Duma, so far from mitigating, made still harsher, in comparison with the despotic régime, the limitations already imposed, and the third Duma (despite the fact that they had heard the thoughtful defense of the deputy Maklakov: "Individuals may be anti-Semitic, they may break every economic agreement with the Jews; they may go still further and close their ears to the music of Rubinstein, but the state has not the right to be anti-Semitic") went so far as to strike not only at the religion but even the race, including in the discriminatory legislation even the converted Jews. And despite the fact that in the higher institutions and the universities their number was already slight, in a meeting in 1913 the absolute exclusion of these subjects from the new specialized institute for engineers of means of communication (which was then established in Moscow) was enthusiastically voted. Thus the Russian nationalists had succeeded, in about a quarter of a century (from about 1881) since the advent of Alexander III, in halting the education of the Jews by a series of restrictions, while under the predecessors of that Czar they had been obliged to go to state schools, all open to them.

Toward 1905 there was a breathing spell, but the chains were riveted again soon enough, and by 1914 no less than seventeen institutions of higher education excluded Jewish students entirely. Among these was the Academy of Medicine of the Ministry of War, the best in Russia, from which were banished not only the Jews who were faithful to the creed of their fathers but also those whose ancestors had been baptized to the fourth generation. Then the restrictions were adopted by the intermediate schools also, and the difficulties of opening private Jewish schools were increased. A great number of youths emigrated to the west, and found refuge and satisfied their eager thirst for learning in the German higher schools. But they were in great part lacking in means, and had to lead a life of poverty or of anxious want. A tragedy!

To the Russian Jews, too, was attributed blame for things of which they were innocent, or they exaggerated their defects and their tendencies. A great English newspaper, the greatest of all, received incorrect information and went so far as to defend the restrictions, so as to justify them (June 5, 1914), asserting that the Russian Jews were all vagrants, dealers in liquor or money-lenders, and that in order to prevent the spread of these evil habits among the rural classes the government was forced to shut them within a limited territory and to impose on them, once there, severe restrictions. The ignorance of the newspaper was complete!

The Jews belonged rather, for the most part, to the class of the artisans and small tradesmen, and the state had then reserved exclusively to itself the sale of liquors. From this monopoly they were excluded, and the scourge of "vodka" that had struck the peasantry had come not from the Jews but from that very government. And yet from these accusations there burst forth the spark which later kindled the terrible pogroms.

Some years before, a tragic and strange event had given rise to new rigors in the two anti-Semitic eastern countries and had seriously occupied the minds of all those who, in anguish at this setback to civilization, saw in the new and sorry fact a pretext for oppression, and perhaps even martyrdom, for that unfortunate people.

On March 12, 1911, a boy by the name of Justschinski had been found murdered in Kiev, completely bloodless, and with forty-three wounds from a sharp weapon. The anti-Semitic organizations began at once a campaign to spread abroad among the public the idea that, the crime having been committed during the days of the Jewish Easter, it must be treated as nothing more nor less than a ritual murder. The accusation fell on a Jewish workman by the name of Beilis, and the accuser was the head of one of those anti-Semitic organizations whose task it was to prepare the pogroms. This version found credit among the people, and an interpellation in the Duma by the party of the extreme Right rendered the matter even graver. Beilis was imprisoned, and in 1913 the case seethed. A professor of the University of Saint Vladimir went so far as to say that the disposition of the wounds was such as to establish a ritual homicide. Very soon the affair took on a political character. Against him there rose as accusers the Cadets, the Octobrists, and the very brother of the Minister of the Interior directed the plea. The anti-Semitic folly knew no bounds, so that the antagonistic papers themselves became indignant, and the university students and the striking workers of St. Petersburg took sides in the matter. Secret books prescribing the sacrifice of Christian blood, like the *Schulchan-Aruch*, were referred to. But this book, which is the Hebrew code in matters of civil and criminal jurisprudence, had already been translated into German in its entirety, by Jean de Pauly, arousing the admiration of Jewish and Christian scholars. And as early as 1896 this author had translated other Hebrew works (the *Zohar* and then *The Civil and Penal Code of Judaism*), so that it was absurd to speak of secret books among the Jews in the twentieth century. Renan, too, who penetrated admirably the whole psychic process in the history of Israel, and while exalting the mission of the Jewish people stripped it of so many laurels, says decisively:

> A rule followed by all those who feared evil was not to drink blood, and to avoid eating meat that had not been rendered bloodless. The blood was considered the constituent element of the person. There existed a principle according to which "the soul is in the blood"; so that to assimilate the blood of a being meant to absorb it, to eat its very being.

I remember also, among other important ones, an article by Clemenceau in the paper *L'Homme libre* (October 14, 1913), while the trial was still in progress, demonstrating the groundlessness of a ritual murder crime. He closed with the admonition: "*Il serait désirable qu'un prompt acquittement soulageât la conscience publique, aucune charge sérieuse n'étant produite par l'accusation, dans un procès où les passions religieuses seules, sont intéressées.*"

But for the anti-Semites the innocence of Beilis had no weight; in punishing him they wished plainly to punish the race which they hated with that hatred born of envy, from the realization that the Jew had the virtues of thrift and solidarity which were lacking to the Russian.

There poured then from scholars the proof that the ritual crime was a pure invention; all the newspapers of all complexions discussed, even outside of Russia, the thorny question, and there were those who recalled the fact that the preacher of the imperial court of Vienna, Father Veit, born a Jew, in 1840 took from the pulpit his solemn oath with the crucifix in his hand that there was no truth in the accusation of ritual crimes. And they cited the sacred books and all the passages which prohibited the use of blood: "Whatsoever soul it be that eateth any manner of blood, even that soul shall be cut off from his people" (Leviticus 7:27), etc.

But the adversaries continued to fight desperately; and then it seemed wise to me to request a declaration from the juridical faculty of the University of Paris concerning the non-existence of ritual crimes. A statement from so lofty a center of learning could not but have weight on the progress of the trial, and I believe that it had no light part in the final recognition of the innocence of Beilis. The faculty of Paris, in fact, sent to Kiev a most important document, full of good will and deserving of the gratitude of the civilized world:

> The undersigned friends of Russia and non-adherents of Judaism denounce to public opinion the absurd accusation of ritual murder directed against the Jew Beilis, of Kiev.
>
> They point out:
>
> First, that far from requiring blood for its rites, the Jewish religion forbids its use in its cult, as in the diet, and that this absolute prohibition is rigidly respected by all the Jewish sects;
>
> Second, that at all times and in all places the minority religions have been the victims of the same calumny; the first Christians under the Roman emperors, as recently the missionaries in China.
>
> They express the hope that such accusations may no longer find credence in a civilized country.

This statement was signed by ALFRED CROISET, Member of the Institute, Dean of the Faculty of Letters of Paris; VICTOR DELBOS, Member of the Academy of Moral and Political Sciences, Professor at the Sorbonne; HENRI DE REGNIER, of the French Academy; CHARLES ANDLER, E. HAUG, Professors at the Sorbonne; FRANTZ JOURDAIN, President of the Salon d'Autonne, Officer of the Legion of Honor; LANGEVIN, Professor at the College of France; AUGER, Lecturer at the Sorbonne; LAPICQUE, Professor at the Museum of Natural History; PERRIN, BOREL, URBAIN, COTTON, Professors at the Sorbonne; A. MEILLET, Professor at the College of France; BOUCHE-LECLERCQ, Member of the Institute; CH. SEIGNOBOS, Professor at the Sorbonne; J. H. ROSNEY AINÈ, GUSTAVE GEFFROY, JEAN AJALBERT, men of letters, Officers of the Legion of Honor; A. JEANROY, L. GALLOIS, H. HAUVETTE, E. DE MARTONNE, FERDINAND LOT, DELA-

CROIX, Professors at the Sorbonne; ALFRED VALLETTE, Editor of the *Mercure de France*; ROLL, painter; J. F. RAFFAELLI, painter, Officer of the Legion of Honor; ALFRED AGACHE, painter; ARMAND DAYOT, Inspector of Beaux Arts, Editor of *L'Arte e gli Artisti*, Officer of the Legion of Honor; J. VENDRYES, CH. GUIGNEBERT, MARIEJOL, RENÉ DURAND, GAFFIOT, DEMANGEON, L. BARRAU-DIHIGO, Professors at the Sorbonne; E. LELONG, J. ROY, GAUDEFROY-DEMOMBYNES, MARIO ROQUES, ROD. REUSS, CH. BEMONT, VICTOR BERARD, GUIEYSSE, AL. MORET, R. GAUTHIOT, RENÉ POUPARDIN, GILLIERON, D. SERRUYS, Professors at the School of Chartres, at the School of Oriental Languages and at the School of High Studies.

But to return to the Roumanian persecutions, the second Balkan War had meanwhile broken out and in the act of mobilization Roumania promised the Jewish soldiers (ten thousand in number) naturalization at the end of the war. And, the war over, the parties divided on the question. The conservatives were part anti-Semitic (N. Filipescu), part (and that was the government of that time) favored the naturalization of the mobilized Jews. This second faction was, in turn, divided; some wanted Parliament to declare the mobilized Jews citizens, others, on the contrary, held that the question should be decided by a convention. The liberal party was against the naturalization merely of the mobilized. It declared that it was necessary to find a solution for the whole Jewish problem (not limited only to the combatant soldiers), but it subordinated this solution to the accomplishment of two great internal reforms: electoral reform and agrarian reform. And then it appeared that it would place such conditions that a great number of Jews would still be left excluded. As for the nationalist anti-Semitic party, it acted as a force of demagogic agitations; it would readily give itself up to violent acts against any concessions whatever. But in any case, even allowing the concession of citizenship to the ten thousand soldiers (bachelors for the most part), the percentage would be insignificant compared to those who would remain excluded.

The situation was sorry, the future dark.

But with the end of the Balkan War another problem arose for all those who had the fate of the Roumanian Jews at heart. Roumania was desirous of being paid for the neutrality maintained during the conflict by a revision of its boundaries, and the city of Silistria, on the Danube on the southeast frontier, was ceded to it. Now the Jews of Silistria, who in the Bulgarian state (a nation of democratic citizens) had enjoyed all the rights of men and citizens, had Roumanian citizenship lost to them.

Deeply worried over that group of souls, I published an appeal to European diplomacy in the hope of saving the religious freedom so seriously threatened, and I wrote for the *Corriere della Sera* (March 3, 1913), just as it came forth from my grieving soul, the following article:

AN APPEAL TO EUROPEAN DIPLOMACY TO SAVE RELIGIOUS FREEDOM [1]

WE are moved to speak by an intense love for the most sacred, for the most fundamental, of constitutional liberties—that which refers to religion. We ask European diplomacy to recover its shining traditions of 1878, now that it is a question of ceding to the Roumanians, who offend against the freedom of creeds, territories and inhabitants of the Bulgarian state, which respected that freedom. How could one say to free men, in the light of civilization, "Diplomacy transforms you from one day to the next into serfs with no country; it deprives you of constitutional guarantees"? Because that, if effective steps are not taken, will be the fate of those unhappy Jews who inhabit the Bulgarian lands which are to be ceded to Roumania! It is easy to prove this.

Article 44 of the Treaty of Berlin concluded in 1878 provided as to Roumania:

> The difference of religious creeds and confessions shall not be alleged against any persons as a ground for exclusion or incapacity in matters relating to the enjoyment of civil and political rights, admission to public employments, functions and honors, or the exercise of various professions and industries in any locality whatever.

This cherished and salutary article protected the Jewish people; it was a prerequisite to the recognition of the independence of Roumania, which noble race, fated for high destinies, the Areopagus of the great powers wished to redeem from the fatal vice of intolerance.

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[1] I received then the encouragement of all just spirits and the gratitude of the most eminent Jewish centers, as is seen from this letter:

Alliance Israélite Universelle
Rue La Bruyère, 45
PARIS, MARCH 11, 1913

Sir and Very Distinguished Coreligionist:

I read with the greatest interest your article in the *Corriere della Sera* about the situation of the Roumanian Jews.

While expressing to you the deep gratitude of the Central Committee of the *Alliance Israélite Universelle*, I join in your wish that the Roumanian government will not continue to remain deaf to the legitimate protests of our fellow-Jews. I feel, unfortunately, very skeptical about Roumanian good will. I think that only friendly but at the same time energetic action by foreign powers may bring that country to respect the provisions of the Treaty of 1878. What country better than yours, sir, could take the initiative respecting an intervention of this kind? In the present grouping of the European powers Italy occupies, in a way, a privileged position, since, at the same time that she is the ally of the two great Germanic empires, she is bound by ties of friendship to the Triple Entente, and by deep affinities of race and ideals to France. On the other hand, there is no country which is better qualified than yours to speak in the name of religious freedom. It can do it with particular authority since religious freedom is practiced so broadly in Italy. Do you not think, sir, that under the circumstances the matter can be brought before the Conference of the Ambassadors by the Italian plenipotentiary? Would a different procedure seem preferable to you? In 1878 a delegation of the Alliance brought the matter before the conference. Could another and larger delegation address its protest to the conference that will meet at the end of the present war? It has come to our knowledge that you were ready to take up the question with the Prime Minister and the Minister of Foreign Affairs of Italy. If your action could be exerted in that direction, there is no doubt in our mind that it would prove to be of great effectiveness.

I am, etc. N. LEVEN, *President*

For the other Balkan countries similar provisions were decreed. But while Bulgaria, Serbia, and Greece faithfully and loyally executed these salutary liberations of the soul, Roumania did not respect them. She introduced into her constitution Article 7, declaring that all foreigners, without religious distinction, could, by law, obtain individual naturalization. The great powers—however much convinced that Article 7 of the Roumanian constitution did not meet Article 44 of the Treaty of Berlin, but indirectly negatived it—recognized the independence of Roumania with the explicit reservation that she should set about putting into effect Article 44, the redeemer of oppressed peoples, and after having drawn a formal promise from Roumania which pledged this to the civilized world. And indeed the Minister of Foreign Affairs of Roumania, Basil Boerescu, in his memorandum of April 28, 1879, on the revision of Article 7 of the constitution of Roumania—a memorandum sent to the powers subscribing to the Treaty of Berlin—said:

> Under the new régime the Jewish Roumanian subjects will have all the rights which foreigners in general enjoy; they will have, further, more than foreigners and like Roumanian subjects, the right of serving in the army, of acquiring real property or lands in the cities, of being lawyers, of practicing freely every profession and every trade; they will have the same personal status as the Roumanians, they will be protected in the same manner by the law and by the authorities, they will be able to obtain the great and the petty naturalization.

But, as is known, the contrary came about; not only were all these promises not realized but the Roumanian Jews, gradually and by means of restrictive laws, were robbed of the rights they had theretofore enjoyed; in a period of thirty-four years, that is, from the Treaty of Berlin to the present day, only two hundred out of two hundred and fifty thousand have been naturalized under Article 7; while all the others have been considered vagrants without a country. A harsh official formula of the Roumanian laws, a formula that moves the heart to pity, is the following: foreigners without foreign protection!

These unhappy Jews of Roumania are truly, according to the German expression, *heimatlos*.

We have looked over a series of laws and regulations—almost a hundred and fifty—passed against foreigners, and which apply solely to the Roumanian Jews; it is a species of ostracism, the cruelest on record; they bind the lives of those wretched ones in chains. The indigent Jews are not admitted to the public offices of the state or of the municipalities; they cannot be teachers, pharmacists, postal clerks, hospital doctors, etc.; they are not admitted, except to a slight extent, into the factories which enjoy the benefits of the law intended to encourage national industries; they cannot be elected to the guilds of the crafts and trades, etc.

They may not enter the public schools, except when the children of

Roumanian citizens have all been placed, and then only by paying a burdensome tax. And since there is not enough room there for the privileged native population, the Jewish children are inexorably kept out of the very schools for which their parents contribute in the same degree as the other citizens. Driven out of the rural communities, in which they may not settle save under the most onerous conditions, where they may not acquire even an inch of land, they are exposed constantly to expulsion as vagrants; but, under the law of 1912, they can only with difficulty obtain passports to leave the country which treats them so harshly.

In short, they are the last serfs still existing in Europe.

However, these helots pay all the taxes, bear all the burdens of citizens, like the Roumanians, equal in duties, deprived of rights. They must, as soldiers, defend the country which declares them foreigners; pour out their blood for a cruel stepmother; remain deprived of a national character, with a prohibition of any promotion in the army, fight for a country that refuses them the primordial rights of men!

How can so fine a nation, born to rule with justice and equity, issue decrees so harsh? And why does she not see that to attain that prosperity and that greatness which all liberal men predict for her, she must seize the occasion of her imminent aggrandizement to free these slaves bound by her spiritual and material yoke?

How is it that no heed is paid to the fact that without clear and inescapable guarantees the Jews, free in Bulgaria, will become serfs on passing to Roumania?

How can the Powers permit this human degradation? Thee friends of Roumania predict for her one of those inspirations which rise from the heart and become the best deeds in the history of a nation. To emancipate the Jews spontaneously, that would be to emancipate also the soul itself of those inexpiable sins which have their source in persecution and in intolerance. If she does not emancipate them she will be forced to do so, not so much by the great powers as by that power which is truly incoercible and inviolable: the power of human dignity, of human liberty. The peoples which are not wise enough to free the Jews—or the other followers of different creeds—and make them equal in constitutional security, bear witness by that very fact to an organic inferiority. Every people has the Jews which it deserves; the Jews of Roumania, industrious, gentle, fond of their native land, still cherish the hope of the definite conversion of the state of Dacia to religious freedom. It is the best wish that we can entertain for her.

Tears of indignation and pity rise to the eyes on reading the following cry of anguish contained in a petition sent by the Roumanian Jews to the Parliament of Bucharest in 1910:

> And now we ask ourselves, What can justify all these decrees? Nothing. All our actions have as their motive the good of the Roumanian people, to whom we feel ourselves linked in language,

> thought, and in sentiment. Our religious belief alone distinguishes us; but this distinction does not diminish either our love for the Roumanian people or the love they have for us in their innermost being. And why, then, such animosity?
>
> In the name of justice and by the greatness of Roumania we conjure you to do away with these grievous anomalies; we are not strangers without protection, we are the legitimate children of this country and we have the right to its protection; deny us no longer the character of Roumanians!

These voices full of strong good will issue always from the afflicted hearts of the oppressed, whether they be Christians, Jews, or believers in another religion.

History brings them together, exalts them, and they become then the triumphal hymns of freedom which the redeemed generations pass on, mingling in the same national glory the oppressed and the oppressors, reunited in the grandeur of a purifying oblivion.

So ran the article. But there was need, also, of a certain assurance of the fate in store for those Ottoman subjects of Jewish religion who were to pass with the territories themselves to other governments. I conferred then with di San Giuliano, Minister of Foreign Affairs, and begged him to take the initiative in an act which would tend to give those populations tranquillity in their future lot. In fact our Government sent, on March 13, 1913, the following telegram to the royal embassies of London, Paris, Berlin, Vienna, and St. Petersburg, and to the legations of Athens, Sofia, Belgrade, and Cettigne:

> ROME, March 13, 1913.
>
> *Royal Embassy*
> *London*
> *Paris*
> *Berlin*
> *Vienna*
> *St. Petersburg*
>
> In the territories occupied by the allied armies there are found, as is known, considerable numbers of Ottoman subjects of Jewish faith, and it is necessary to avoid the eventuality that such populations, passing with the territories themselves under new governments, should receive less favorable treatment than they enjoyed under the Ottoman government. The Royal Government believes it fitting to call the attention of the powers to this matter, and cause the allied Balkan governments to be invited to give assurances of guarantee in this respect.
>
> I therefore beg Your Excellency to express this idea to the Minister of Foreign Affairs, reporting to me the reception which my suggestion receives.

I have sent identical instructions to the other royal embassies at the interested cabinets.

I am sounding out, meanwhile, for my part, roughly what the intentions of the Balkan governments may be expected to be in relation to the subject under consideration.

SAN GIULIANO

ROME, March 13, 1913.

Royal Legation
Athens
Sofia
Belgrade
Cettigne

I have sent to the embassies of the great powers interested the following telegram: "In the territories occupied by the allied armies, etc." [see the preceding telegram].

While I am waiting to let you know what will be done with my suggestion by the powers, I urge you to ascertain and communicate to me what may be, roughly, the intentions of that government in relation to the subject under consideration.

SAN GIULIANO

The embassy at London replied immediately in the following terms:

LONDON, March 14, 1913

"Grey finds Your Excellency's suggestion wise, and while not pledging himself to put it into effect now he will be very glad, when the moment comes, to support the proposal then made by Your Excellency. It seems to Grey, moreover, that that occasion would be propitious for the definite regulation also of the connected, and for years unsolved, question of the abnormal situation of the Jews in Roumania.

IMPERIALI

The Russian government wished to gain time, and meanwhile our ambassador sent a telegram to this effect:

ST. PETERSBURG, March 15, 1913

I have represented to Neratoff the fitness of obtaining assurances from the allied governments that the treatment on their part of the Jewish Ottoman subjects will not be less favorable than that which they enjoyed under the Ottoman government. He replied that before making a statement on the matter he would have to find out if any of the four states had in its laws special arrangements which might lower the treatment until then in force among the Ottoman Jews, and that he would then have something to say about the matter.

CARLOTTI

The embassy at Berlin replied with even greater reserve:

> BERLIN, March 15, 1913
>
> I have communicated to Jagow Your Excellency's suggestion concerning the assurances to be obtained from the allied governments of the treatment of the Ottoman subjects of Jewish faith inhabiting the territories which will pass under their sovereignties. He showed himself to be in a general sense favorable to it. He suggested smilingly that the proposed step would probably find much criticism in Germany where anti-Semitic currents are pretty strong, and that for the same reason the adherence of Russia seemed to him difficult. In any case, he begged me to send him a memorandum written on the subject, after which he would give me a definite reply.
>
> BOLLATI

The following day, however, he sent a reassuring telegram:

> Jagow lets me know that he is ready to support Your Excellency's proposal for the treatment of the Ottoman subjects of Jewish faith in the occupied territories.
>
> BOLLATI

The embassy at Vienna replied in a prudent tone, but asking that the guarantees, as was right, be extended to all the minorities:

> VIENNA, March 16, 1913
>
> Berchtold, to whom I expressed the sense of Your Excellency's instructions, told me that he received your suggestion for the Jews with sympathy. It seemed to him, however, more fitting that such a suggestion be presented to the meeting of ambassadors. He had had also an idea similar to Your Excellency's. In his opinion it would be necessary to obtain from the Balkan states assurances of guarantees in favor of all the minorities, not only in favor of the Ottoman subjects of Jewish faith but also of the Slavs of Catholic faith, etc. He believed that the two governments would be able to act together in this respect, to present together to the meeting of ambassadors in London a proposal in the above-mentioned sense.
>
> AVARNA

The French government also wished to gain time, and meanwhile expressed itself in a very reserved manner:

> PARIS, March 17, 1913
>
> Concerning the assurances to be obtained from the allied Balkan governments with respect to the treatment of the Ottoman subjects of Jewish faith found in the territories occupied by the allied armies, Paléologue has asked me to send him a memorandum, after which he will give me a reply.
>
> RUSPOLI

After the replies of Imperiali and Avarna, I wrote to di San Giuliano these provocative words:

> ROME, March 18, 1913
>
> DEAR AND ILLUSTRIOUS FRIEND:
>
> You are on the path which leads to true glory, to the glory which dwells in the benefits of spiritual redemption. But you must not grow weary.
>
> Minister Grey said to Imperiali that he thought it a fitting time to seize the opportunity of settling the most difficult problem of the Jews in Roumania. Why do you not support him? And you ought to support Berchtold, too, in his demand that the Catholics of the Ottoman countries be included in the defense. You ought to defend all those who, in the Balkans, are opposed by divine wrath, whatever be the Deity which looses it. *Tantæne animis cælestibus iræ! Macte animo;* you can go down in history like Voltaire for his defense of Sirven and Calas, and I shall write your praises.
>
> Giolitti told me that he agreed completely with my article in the *Corriere della Sera* for the protection of the Jews.
>
> The other Balkan states are tolerant in this order: Bulgaria (very liberal), then Serbia, and last Greece. The scandal is in Roumania, and the Jews of Bulgaria cannot be handed over to her without guarantees; hence forces itself upon us Grey's contention. Gladstone said to me in Venice in 1885 that he would not have been able to write the *Juventus mundi* without the cession of the Ionian islands to Greece. You glorify your ministry in freeing persecuted souls. Why do you not place before the Bulgarians the program for the defense of the Jews of Silistria, if they must pass to another state? Why do you not take hold of the proposal of Grey expressed in Imperiali's telegram? . . .

Sofia, Belgrade, Athens gave the Italian government thoroughly satisfactory assurances:

> SOFIA, March 17, 1913
>
> I know from my own experience that the Jews have always enjoyed the most complete religious freedom in Bulgaria. This has been, moreover, confirmed for me recently by the Grand Rabbi of Bulgaria. Having expressed to the Minister of Foreign Affairs here the terms of Your Excellency's message, Gueschoff gives me to understand that the Bulgarian government intends to guide itself, in the matter of the Ottoman Jewish subjects who are found in the occupied territories, by the same principles of liberty, and consequently there need be no fear that these Jews will find themselves in a less favorable condition under the Bulgarian government than they had enjoyed under the Ottoman government. As is known, in the Ottoman Empire the Jews are merely tolerated, whereas Article 40 of the Bulgarian constitution assures the Jews freedom of worship.

I add that public opinion in Bulgaria is very favorable to the Jewish element on account of the patriotic attitude they maintained during the present war and the bravery shown by the Bulgarian soldiers of Jewish faith.

CUCCHI

BELGRADE, March 19, 1913

Having had occasion to discuss Your Excellency's telegram with him, the Secretary General of the Ministry of Foreign Affairs has assured me that it is the intention of the Serbian government to grant to the Jewish population living in the lands which will be assigned to Serbia the same freedom of worship and of action granted to every Serb, treatment already enjoyed by the numerous Jews living in Belgrade.

RINELLA

Under the date of March 29, then, di San Giuliano wrote me the following letter:

DEAR FRIEND:

With reference to our previous correspondence on this subject, I send you the following extract from a report of the royal minister in Athens of the 20th of this month:

"I spoke to Coromilas yesterday of the importance which the Royal Government attaches to having assurances that, in the territories which may be assigned to Greece, the subjects of Jewish faith shall receive just treatment no less favorable than that which they enjoyed under the Ottoman régime. Coromilas replied that the Greek government did not hesitate to give the fullest promises on this score, and added that a clear guarantee that these promises would be kept is to be found in the fact that the Jews now living in the territory of the kingdom have never had cause to complain over their lot.

"I know this myself from the little experience I have had of this country. Proof that the Greek rule is desired by the Jews of the Ottoman Empire may also be seen in what happened in Jannina on the occasion of the taking of that city. The Jewish community, in fact, celebrated the event with a *Te Deum* in the synagogue, which was attended by all the authorities of the Greek government, declaring the loyalty of the Jews to the new régime. After the *Te Deum* they took part in a public demonstration organized for the happy event."

With the most cordial regards,

Your most affectionate

DI SAN GIULIANO

I expressed my thanks then to my friend di San Giuliano for the work of redemption begun on behalf of the oppressed, indicating not by words but by deeds the duty of a diplomacy not content with platitudinous formulas but with courageously liberal acts. And he answered me thus:

DEAR FRIEND:

The words of praise which you send are precious to me because they come from a man whose lofty intellect judges on a high plane both men and things; but if there is any merit in the efforts which you refer to, it is all yours, because it was from you they had their beginning.

Your most affectionate

DI SAN GIULIANO

The Roumanian government meanwhile began to justify itself in the eyes of our minister at Bucharest. Di San Giuliano kept me informed of the matter and I put him on guard against the excuses of the persecutors in another letter.

March 18, 1913

DEAR FRIEND:

With respect to your welcome news, I am happy to bring to your knowledge the contents of a report, dated March 5 of this year, from the royal minister in Bucharest, concerning your article published in the *Corriere della Sera* on the situation of the Jews residing in the territories which are to be ceded to Roumania by Bulgaria.

Having first observed that the Roumanian press contests the basis of the point of view expressed in your article, the royal minister contends that the Semitic question in Roumania has not a really religious character, and assures us that "there is no cause for harboring apprehensions concerning the fate of the Jews in the territories contested for by Bulgaria and Roumania, because becoming Roumanian subjects they will retain without diminution (as has happened to their co-religionists of Dobrudja) the rights which they now enjoy."

Believe me, etc.,

Your most affectionate

DI SAN GIULIANO

ROME, March, 1913

MY DEAR FRIEND:

The Roumanian minister at Rome himself (less Roumanian than our minister in Bucharest) has recognized, in speaking about it with me, that except for real property and passports all the indications on behalf of the Jews in Roumania are correctly described and that all the oppressions denounced by me exist. It is commonly said that they are not oppressed *as Jews*, but for other reasons; these are the historical excuses of all the persecutors. Do not let yourself be misled by our minister in Roumania and send him a strong letter, worthy of you and of the cause of religious freedom.

With the Roumanian government it will be necessary to speak with "sweetness," persuading it that it is to its interest to change its attitude toward the Jews, not only in appearance but in substance.

A few days later, I published an article in the *Corriere della Sera* of March 27, 1913, as follows, on

INTERNATIONAL PROTECTION OF RELIGIOUS MINORITIES

From one of the bloody fields of the Balkans comes the story (the inquiry now in progress will verify or disprove the sad news) that some Montenegrin soldiers railed against a group of Catholics and forced them to change their faith; finally, coming upon an intrepid friar who knew how to face martyrdom for his God, they tortured him and slew him. So also the Jews in Roumania, the Catholics in some of the territories occupied by the Balkan troops, and the Mussulmans, will experience, will suffer, the effects of the savagery of human nature!

From heaven have always come the ineffable consolations, the heroisms mild and immune from vengeance, but also and at the same time the most bitter persecutions, the most iniquitous proselytism. The most difficult form of freedom, the last to be established even among the most progressive nations, is freedom of religion; whether the representative régime supports it in its attitude is the essential test of the maturity of a people.

The human mind is so constituted that it tolerates with less difficulty the contradictions of science and politics than the calm coexistence of its own cult and that of others; they who are oppressed by the multiform wraths of heaven are admissible, so long as they resist and die for their faith; but when they become the victors it is rarely in history that they renounce vengeance and perfidious intolerance. Reprisals and persecutions, by a strange and terrible perversity, seem to the faithful a guarantee of their love of God! Hatred toward other faiths, the more implacable it is, the more capable it seems of purifying the worship of the true God, according to these misguided ones, according to these who are so sincere in their celestial perseverances. And since great wars, even those undertaken for the noblest of causes, the redemption of the fatherland, set free the base as well as the finer passions, we ought not wonder at this mediæval recrudescence of religious intolerance in some of the Balkan countries. Bulgaria alone, which has always known how to bear itself with honor, is free from it!

But the Catholics are afraid of the Montenegrins, the Jews and Catholics of the Greeks and Serbs, the Mussulmans of every one, perhaps mistakenly. Now that European diplomacy finds itself in an agreement presaging future and more lofty accords, the ambassadors assembled in London—who are worthy of the cause of the peace of the civilized world—ought to support powerfully the propitious occasion for imposing on the augmented Balkan states full religious equality, together with effective sanctions.

The Mussulmans demand it, and the enslaved Jews of Roumania, treated as foreigners without foreign protection; the Bulgarian Jews who will be consigned to the Roumanians; the Catholics, all demand it, fearing persecution; that friar claims it by his serene martyrdom (if the news is true), who, if he is canonized by the Church of Rome, by the church of humanity became a lay saint, when that affirmer of its spiritual freedom was killed. But diplomacy must realize that it is dealing with one of the gravest and most difficult problems; territorial boundaries are more easily revised than the souls of believers, and to increase the races devoted to one single creed is to render them always more reluctant to respect the beliefs of the minorities. The treaty adopted by the Congress of Berlin, which by Article 44 obliged the Roumanian state to give civil and political equality to the Jews, has, as I have shown, been violated continually and with impunity up to now; nor are subtle arguments ever lacking to stifle the human conscience. The Roumanians have reduced the Jews to a state of servile abjection, ostensibly not on account of their religion but because of the purity of the Dacian race, which the Semites would stain. Thus they reply! And they are the same arguments with which, after the dispersion from Jerusalem, one assaulted, massacred, oppressed, isolated, these unfortunates, as has been shown by two great Italian souls, Carlo Cattaneo and D'Azeglio, the one made constantly greater by time, the other remembered always with affection for his emancipating initiative, who smashed inexorably the perfidious destructive sophistries of history. Which governments will take the initiative in the defense of the religions of the minorities of the Balkan states?

The ideal would be for all the great powers to prepare the generous redemption. But since there is one of them to which the Balkans could reply, "Physician, heal thyself," the other five ought all the more set about the sublime plan.

Austria-Hungary, which is so agitated by the recent persecutions of the Catholics, ought to put itself sincerely in accord with Italy, the natural protector of all freedom, and with the other major states.

The liberal and free English, children of Gladstone, how can they have let Italy be before them in this civilized defense? The ideal mission of a state is not measured only by its military power and its culture, but by the diffusive efficacy of its international pity. A great writer has said, "It is possible to use all the instruments of civilization and still be barbarians."

In the last century there were historical moments when immortal cries issued from Gladstone's heart against the tyranny of the Bourbons in Naples or against the persecutions of race and of religion in the Balkans, moving the civilized world and preparing it for salutary reforms. Those shining traditions must be taken up again. Up to now, to our knowledge, the Minister of Foreign Affairs who has best understood and felt this most high duty of civilization is di San Giuliano, who grows stronger constantly, and whose genius is increased by difficulties. Not without effect has he placed before the great powers the sorry plight of all these oppressed by the various wraths of heaven in the Balkans, of all these accused and condemned of the crime of religion. With strong reasoning, with serene dialectic, di San Giuliano has undertaken and is undertaking, to prove that all oppressions of this kind are alike; the one who persecutes a minority of Jews to-day will persecute to-morrow a minority of Catholics or Mohammedans; blood and proselytism foment blood and intolerance; there is no salvation save in firm and sincerely practiced guarantees of religious freedom.

There exist still to-day—and they will increase after the Balkan peace—so many international quarrels, inspired by the suspicions, by the angers, and by the balances of fear; why could there not be instituted a control, suggested by respect for religious freedom? If this germinated from the blood of so many chosen patriots spilled now in the Balkans, after the immortality of the national principle of the races, or better, together with it, there would be affirmed the inviolability of the religious principle, and the two redeeming ideas would sustain each other, assist each other, ennobling each other reciprocally. Human civilization would have obtained its highest reward.

Interviewed about this and other articles of mine, Take Jonescu replied that on the act of the annexation of Dobrudja the Jewish, Greek, Bulgarian, and Roumanian inhabitants received without distinction all the rights of citizens. As for the Jews of the kingdom, he added that the question had left the field of international law entirely, to become simply a matter of internal law. International opinion, then, if you wish, and above all a question of internal law susceptible of all the evolutions, but none of the arguments, of international law. Many other Roumanian papers, also, had discussed my statements. In the *Corriere della Sera* of April 20, 1913, I replied to Take Jonescu:

A NECESSARY REPLY TO THE MINISTER OF THE INTERIOR AND THE PRESS OF ROUMANIA

I have on my desk a heap of Roumanian papers which seek to answer the two articles published in the *Corriere della Sera.* If it were a question of my personal defense I should refuse to enter upon it; but it is a question of two hundred and fifty thousand persons oppressed for the crime of religion, therefore to speak is a high duty.

Ogni viltà convien che qui sia morta.

But before replying let me make a necessary declaration. As an Italian I feel the Latin spirit which binds me to Roumania; no one more than I wishes her a prosperous fate, greatness, and glory, and this is known by one of her eminent statesmen, Bratianu, to whom I am bound by ties of friendship and regard. But the defense of spiritual freedom in whatever corner of the world it is violated is the condition, the food, of my moral life; I defend the inviolability of all religious and philosophical faiths and therefore I am. This is my application of the famous Cartesian dictum! And now let us enter upon the serious controversy.

In an interview granted by the Minister of the Interior, Take Jonescu, to a correspondent of a German newspaper in Bucharest, I am answered thus:

> An elementary principle of international law prescribes that when a state annexes an inhabited territory the inhabitants become citizens of the new state, as they were of the old. Therefore it is plain that Roumania will apply the same principle to the Jews, who were Bulgarian citizens, in the territory which will pass under the sovereign dominion of Roumania. As for the other question of the manner in which Roumania may have carried out the provisions of the Treaty of Berlin, that problem ceased to be a part of international law on the day on which the powers subscribing to the Treaty of Berlin recognized the independence of Roumania. . . . The question of the Jews in Roumania became a question of internal law.

These observations of the minister, summing up, also, the opinions of the Bucharest papers, take very little account of the sufferings continually inflicted on the poor Jews, despite their pretended liberation, which they have never received!

The minister certainly cannot suppose that I have engaged in this spiritual battle with a light heart.

And I shall begin with the first objection, opposing facts to assertions.

The law of March, 1880, on the organization of Dobrudja, which had been ceded to Roumania, provided in Article 3: "All the inhabitants of Dobrudja who on April 11, 1877, were Ottoman citizens become and are Roumanian citizens." Thus international law was respected. But the second clause of the same article added immediately: "A special law will determine the conditions, by the observance of which they will be able to exercise their political rights and acquire real property in Roumania proper." The inhabitants of Dobrudja became, in this wise, Roumanian citizens, it is true, but provisional citizens, awaiting a decisive law.

This provisional régime lasted until April 19, 1909, when, yielding to general complaints, a law was passed granting political rights to the inhabitants of Dobrudja who had been Ottoman citizens on April 11, 1877, the date of the declaration of the Russo-Turkish War. And this law required documentary proof of Turkish citizenship. But after thirty years it was almost impossible to furnish it, especially since in the Ottoman Empire the non-Ottomans were not considered citizens but subjects.

The commissions established to verify the claims were inexorable against the Jews, and thousands of inhabitants of Dobrudja who after the annexation had enjoyed municipal rights saw themselves refused the rights of Roumanian citizens, and became also (eighty-five per cent of them) foreigners without foreign protection, like the unhappy native pariahs of Roumania.

This was the effective value of those inviolable principles of international law which, in the passage of Dobrudja to Roumania, the Minister of the Interior invokes in defense of his charming thesis, to refute my cautious mistrust inspired by sad experience.

Great agitation followed this; Carp, a statesman of Dacia, worthy indeed of Ancient Rome, the President of the Council, whose liberal ideas never faded, passing from the opposition to the government, and his colleague, Marghiloman, presented an explicit measure, that of 1909; this, by a loyal interpretation, put an end to the shame of the base severities, recognizing finally as Roumanian citizens the greater part of the Jews of Dobrudja. Thus, thirty-two years after the annexation of Dobrudja, a law was passed granting political rights to the inhabitants of that region; as a result of such a principle nearly all the Jews were excluded from Roumanian citizenship, and only after the iniquity of this long exile in their own country did they obtain, through the initiative of a liberal minister, the tardy benefit.

It seems to me that the Jews of Silistria, after so sad a precedent, have great reason for fear, and that my ignorance of the principles of international law is vindicated by the most precise cases which I have had to relate!

In any case, why have the statesmen of Roumania persisted in not recognizing that in enlarging the circle of emancipated Jews they render still heavier the chains of those who remain enslaved?

Minister Jonescu added in his interview that the status of the Jews ceased to be a part of international law on the day that the powers subscribing to the Treaty of Berlin recognized the independence of Roumania, claiming at the same time that Roumania fulfilled the obligations imposed upon her in religious matters as well.

It is not true, to put it mildly!

I have already recorded in my Appeal the memorandum of Minister Boerescu (addressed to the foreign powers) which made promises favorable to the Jews. Now in February of 1880 a collective note of the representatives of Germany, Great Britain, and France expressed the thought that

> the law of October 25, 1879, does not correspond to the views held by the subscribing powers of the Treaty of Berlin in the new constitutional provisions concerning persons of non-Christian faith.
>
> Trusting however in the willingness of the Roumanian government to approach increasingly in the application of these provisions the liberal attitude by which the powers have been inspired, and taking account of the formal assurances transmitted to this end, the governments have decided to recognize the principality of Roumania.

If space permitted we would publish here in its entirety the circular addressed to the diplomatic agents of France by Minister of Foreign Affairs Freycinet, the friend of Gambetta and Garibaldi, one of those French statesmen who inherited from the revolution of '89 the immortal principles of liberty and democracy, rejecting those of Jacobinism.

Freycinet, who without calling himself a democrat at every turn accomplished deeds truly beneficial to the civilization of the world, reconciled the Latin's love for Roumania with that for religious freedom. Therefore his circular too warns that the subscribing governments of the Treaty of Berlin knew that Article 7 of the Roumanian constitution did not conform to Article 44 of the Treaty of Berlin, and that they had, therefore, recognized the independence of Roumania with the reservations expressed and taking account of the formal assurances given.

Europe trusted in the young state for the triumph of religious freedom. But this triumph is a condition placed forever on the independence of Roumania, and the writer has not lost hope that it will come to pass by the spontaneous choice of a people that is the guardian of great traditions and of great ideals.

And now, to pass from the minister to the press, some papers reprove me for having said that freedom of worship in Roumania does not exist. Freedom of worship does, in fact, exist in Roumania, but the Jewish communities are not recognized as juridical entities, they cannot acquire real property nor receive gifts, so that the synagogues, the hospitals, and the schools, those three essentials of public and moral life, are acquired in the name of particular persons.

There freedom of worship does not permit a temple to be erected in the name of the community, in which to worship!

I referred, and every one understood me, to that confessional liberty which is the basis and climax of all the other liberties which it includes, and which presupposes the full enjoyment of civil and political rights, distinguishing and separating the citizen from his God, the state from the church.

I continue to contend against the persecutors of the Jews, of the Catholics, of the Mohammedans, of the Greek Catholics, in the Balkan countries, but I have not lost the hope that under the salutary influence of the great powers the peoples now at peace may send up a prayer for mutual forgiveness, forgetting the sad time when God, who is the father of all peoples, divided them and demanded once more of their faith the pleasant smoke of human victims.

On that day there will be sung one of the most beautiful hymns, most sacred to civilization; a worthy commentary, a sublime epilogue, to so much blood spilled for the fatherland, which will console for and expiate the past persecutions!

There followed another reply, in which the minister changed his method. He did not reprove me for ignorance of the elementary principle of international law; he pretended instead that "at the time of the annexation of Dobrudja the Jewish, Greek, Bulgarian, and Roumanian inhabitants had all rights except that of being represented in Parliament." The lack of the right of being represented in Parliament was no small matter; but, in any event, Clause 2 of Article 3 of the law of March, 1880, had expressly provided: "A special law will determine the conditions, by the observance of which they will be able to exercise their political rights and acquire real property in Roumania proper." These inhabitants of Dobrudja did not have then, the right to acquire real property in Roumania (a fact which the minister passed over in silence!) and they were, moreover, deprived of all political rights. And what is a citizen without political rights, especially where many civil rights (the exercise of professions, trades, vocations, etc.) had been changed into political rights, and refused to non-citizens? [1] The minister's statement, further, that "the question was susceptible of all the evolutions," was too slight a matter, and a very distant hope!

One concession only did he make me: he admitted that it was, in effect, a question of international sentiment. But it was precisely in the name of this international sentiment, that is, in the name of liberty, in the name of the universal conscience of the civilized world, that I spoke out in defense of the Jews of Roumania!

The Semitic question for me (who was not given a pretext to champion it by considerations of racial superiority or by Zionist aspirations) was solely a question of freedom; I would have raised my voice for any other oppressed or persecuted faith whatsoever, and it was not the first time that I raised it for the protomartyrs of civilization! At the time of the conference of Algeciras I remember receiving the President of the Italian Zionist Federation, who, by arrangement with a representative of the "*Hilfsverein der deutschen Juden*," had come to Rome to ask me to help them defend the cause of the Jews of Morocco. I supplied him with a letter to Emilio Visconti-Venosta, I introduced him to Barrère, helping him thus to the best of my ability to attain his end. And when, after the African occupation, complaints were sent me from that colony of the scarcely benevolent (in their eyes) attitude of some Italian officials, I recommended the defense of religious freedom to our Minister of the Colonies. "That is all we lack," I said to him, "that Africa should bear us the fruit of intolerance." To judge from a fervent letter of thanks which the *Alliance Israélite Universelle* wrote me thereafter (also for having obtained for the Community of Tripoli the recognition by our government of the right of reimbursement of the cost of scholastic property of which they had been arbitrarily deprived) and not having received further complaints, I believe that the little cloud was quickly dispersed.

But to return to Roumania, after having replied through the medium of the press to those statesmen, I repeated my arguments orally to Signor Xenopol, Minister of Agriculture, Industry, and Commerce, then on a trip to Rome, when he came to pay me a visit. Meanwhile all the more fortunate Jews—those who in other countries really enjoyed the rights of men and citizens—raised their voices in defense of their oppressed brothers and invoked the intervention of their respective governments. The "Conjoint Jewish Committee" of London sent a stirring appeal to Sir Edward Grey, then British Foreign Minister, that the British government should on the occasion of revising the Treaty of Berlin, together with the signatory powers, impose on Roumania the obligation of treating more justly the Jewish minorities, etc., and the independent thinkers of the whole civilized world offered their enthusiastic support. The *Federazione Internazionale del Libero Pensiero* issued a protest, calling on right thinkers of the whole world, to the end that no religious difference should become the basis of exclusion from or incapacity for the enjoyment of civil and political rights, admission to public offices, or the exercise of professions and industries, and it was signed by Eugène Hins of *La Pensée*, Hector Denis, Rector of the free University of Brussels and a Deputy, the Honorable George Lorrand, Léon Fournemont, etc., Senators Houzeau de Lehaie, Emile Vinck.

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[1] A Jew could not even be a grocer!

In the United States also, the ancient refuge of the victims of religious persecution of the whole world, the sufferings and the misery of these wretched ones without a country found an echo in the heart of men eminent in social and political life. Already in 1872 Congressman Samuel S. Cox of New York had presented to the American Congress the following motion: "The President of the United States is respectfully urged to join with the Italian government in the protest against the intolerant and cruel treatment of the Jews of Roumania." And Benjamin F. Peixotto, for about five years American consul in Bucharest,[2] was accompanied on his mission by this letter from President Grant, the brave general of the Civil War:

> Mr. Peixotto has undertaken the duties of his present office more as a missionary work for the benefit of the people he represents than for any benefit to accrue to himself—a work in which all citizens will wish him the greatest success. . . . The United States, knowing no distinction of her own citizens on account of religion or nativity, naturally believe in a civilization the world over which will secure the same universal views. . . . It is not by Chinese walls or Spanish expatriations that nations, great or small, can hope to make progress in our day. . . . I hope that his efforts will result in mitigating the evils complained of and end in terminating them. The story of the sufferings of the Hebrews in Roumania profoundly touches every sensibility of our nature. . . .

The Peixotto mission was helpful. Jewish schools were established; some prefects who had not objected to the outrages were removed; new hostile laws were prevented. But his principal merit was that of rousing Europe, of raising it against Roumanian anti-Semitic intolerance; he brought about the International Jewish Conference of Brussels (1872) and, in part, the provisions of the Treaty of Berlin.[3]

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[2] Singular event! The United States sent to represent it in Roumania a Jew belonging to that race which the Roumanians deemed incompetent and unworthy of full civil and political rights.

[3] See the accurate study of Max J. Kohler and Simon Wolf (*Jewish Disabilities in the Balkan States*, The American Jewish Committee, New York, 1916).

Inheritors of this tradition, some chosen American citizens met in 1913 without distinction of faith or origin, inspired solely by a sense of humanity and of justice, under the presidency of the Honorable Champ Clark, Speaker of the House in Washington, and formed the American Committee for the Emancipation of the Roumanian Jews. Among its numerous supporters were Vincent Astor, the philanthropist, the Honorable Oscar S. Straus, already previously Ambassador of the United States to Constantinople, Jacob H. Schiff, Max Nordau of Paris, Israel Zangwill and Claude G. Montefiore of London, etc. Its scope was to form similar committees all over the world and to meet at the end of 1913, or (as in fact it turned out) at the beginning of 1914, in the German capital, to protest to the signatory powers of the Treaty of Berlin and petition them to make remonstrances to Roumania for not having conformed to that pact.[4] Many American papers, like the *Evening Mail* and the *New York Times*, emphasized and defended this sound protest.

> The voice of the nation is raised and protests against the maltreatment of the Roumanian Jews [wrote the *New York Times* of October 1, 1913], and for this means of justice we find two great precedents. Two of the greatest English statesmen of the nineteenth century, Sir Robert Peel and Lord Palmerston (then Prime Minister), joined to request in the name of the British government humane treatment for the Jews of Syria; then all of western Europe and the United States joined together to protest against the Turkish oppression of the Christians in Armenia.

And some months before, in the American Congress, there had echoed the cry of indignation of one of its members, the Honorable J. Hampden Moore, who, in the name of the voters of Pennsylvania, requested the Secretary of State to give information to the House concerning the solution of the problem of the Roumanian Jews. He deplored the fact that after 1904 the United States and the other powers had done very little to induce the Roumanian government to keep the promise made to the Congress of Berlin. And he continued, quoting the words spoken one day by Secretary of State Hay: "The lessons of history and the experience of our country confirm the fact that the Jews possess in a high degree the moral and mental qualities for conscientious citizenship." He then submitted to the Secretary of State the request (referred to the Foreign Affairs Committee and approved) that the House be informed as to whether any communication had been made to the Roumanian government or to the signers of the Treaty of Berlin concerning the observance of that pact or concerning an agreement on naturalization between the United States and the Roumanian government; and, in the event that no conclusion was reached, that the possibility of setting afoot new diplomatic negotiations with respect to the said treaty be considered.

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[4] On January 23, 1914, representatives of eight nations did, in fact, meet in Berlin; a telegram from me reached them begging that they desist for the moment from that action, pointing out that Bratianu was then disposed to mitigate the situation of the Roumanian Jews and fearing that the cause would be harmed by new protests. In fact, the conference was adjourned. (Author's note.)

Meanwhile, the committee for the emancipation of the Roumanian Jews had met, and after stirring protests (among them that of Senator Clapp of Minnesota, who showed that the United States had recognized the independence of Roumania only because it was assured that she would not fail in the essential and most important points of the great document which was the Treaty of Berlin, and that, in the twentieth century, after having recognized the principle of the brotherhood of men and of the brotherhood of nations, the United States could not remain indifferent before the oppression of citizens, even though it were in a foreign country) had voted a letter to be sent to the king of Roumania signed by men like Theodore Roosevelt, Andrew Carnegie, Vincent Astor, by the archbishop of the Greek church in New York, and by a great many other eminent personages.

Then on October 10 the Honorable Walter M. Chandler of New York, a member of the Presbyterian church, made a learned speech in the House of Representatives citing all the Roumanian laws relative to the treatment of the Jews, showing how Roumania had always evaded the powers, beginning with the Treaty of Paris (1856), reviewing the vexations and persecutions, making a most profound inquiry into the true causes of the oppression of the Jews from ancient times, addressing a ringing appeal to the England of Magna Charta, to the France of 1789, to the United States of Washington and Lincoln, and concluding with the following pronouncement:

> The Senate and the House of Representatives of the United States in Congress assembled, considering the interests of civilization, the rights of human people, the principles of eternal justice, the dignity and sanctity of international law, ask that the signatory powers of the Treaty of Berlin oblige Roumania to observe the stipulations of that treaty relative to the Jews, and beg the Secretary of State to transmit a copy of this resolution to the governments of Great Britain, of Germany, of Austria, of Russia, of France, of Italy, and of Turkey.[5]

America proved itself worthy of its shining traditions of religious freedom, expressing its gratitude for the wonderful contribution made by the Jewish race to the spiritual, intellectual, and economic wealth of the United States, more than to the rest of the world. And, a strange coincidence, those same Jews whom Roumania exiled from her territory because they were vagrants, usurers, etc., founded in the United States coöperative credit unions among the farmers to combat usury, institutions still unknown in the great republic. A New York newspaper asked me for a message of cheer for its campaign, and I telegraphed:

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[5] The speech of the Honorable Walter M. Chandler, one of the most fervid and courageous on this subject, coming from the mind of a statesman, is so important that I translate it entirely in Appendix XVI, reproducing also the lofty declarations of Lord Macaulay made in the English House of Commons April 17, 1833, on the occasion of a bill for the emancipation of the Jews and for their participation in English political life.

In Appendix XVII I reproduce another speech on religious liberty, of differing eloquence but no less effective in its persuasive serenity, made recently in the Italian Senate by Senator Vittorio Polacco.

> The Jews have a right to religious freedom everywhere, as it is practiced in the United States and in Italy. And if they return to Palestine freed from the Turks, let them live in the land of their fathers not as sovereigns, but till the soil as free citizens. Jewry is no longer a nation, it is a religion.

The public opinion of the civilized world was aroused. Roumanian society was alarmed and several papers (*Seara, Facla, Inainte, Viitorul, Economia Nationala, Romania Muncitoare, Lumina Noua, Actiunea, Dreptatea, Unirea, Adeverul, Vointza Nationala*) reported or commented on my protests. Sir Edward Grey read my articles, thanked me, and promised the persecuted ones his aid when the time came. Pichon, French Minister of Foreign Affairs, made the following declaration to Signor Leven (President of the *Alliance Israélite Universelle*):

> *Je trouve naturel que la France, l'Italie et l'Angleterre, qui sera sûrement avec nous, s'efforcent d'obtenir satisfaction sur ce point de la Roumanie. Dans peu de temps, une conférence se réunira sans doute à Paris ou à Londres qui aura à régler définitivement toutes les questions soulevées en Orient. Ce sera l'occasion de résoudre également celle dont vous m'entretenez. Vous pouvez compter sur moi pour cet objet et je vous prie d'informer M. Luzzatti des dispositions du gouvernement français* (April 18, 1913).

On May 19, Grey wrote to Lord Rothschild:

> Dear Lord Rothschild:
>
> I have received your letter referring to the condition of the Jews of Roumania and I assure you of my most lively desire to have that question settled in a satisfactory manner, at the opportune moment. I shall be glad to hasten the solution as soon as the preliminaries of peace between Turkey and the Balkan states give opportunity for doing so. I have already informed the "Conjoint Jewish Committee," which interested me in the matter, that I shall not forget the question. . . .

Almost simultaneously Pichon declared that he was ready to join the action of the French government to that of the British government, and that he had given instructions to this effect to the French ambassador at London. He had, moreover, authorized Baron Edmond de Rothschild to make known his intentions to me, adding that he would speak about this question with Tittoni personally, in order to indicate to him the line of procedure which France intended to follow together with England.

Meanwhile groups of persecuted ones, persons exiled from everywhere, pleaded that my voice should not remain silent. And I received a heart-rending letter from a group of eight Roumanian Jews, representing with their wives and children thirty-nine persons. All of them boasted several generations of descent in Roumania, they had satisfied the requirements of military service, they knew no language besides Roumanian; and despite this they were considered foreigners, they had been expelled in 1905 from their native land, where slept their dead (some of them fallen on the field of honor in 1878 for an ungrateful country). And this measure had been taken on the pretext of usury, by the police alone, whose agents destroyed all the goods of the accused, acting as mobs which succeeded in tearing them away by fraud, to spare influential persons from paying them. And another group of these unhappy ones wrote me: "Who can defend us? You, the apostles of humanity, you are our support; you, powerful brothers, fight for us whose hands are tied; be you the ones to wipe away from our face the shame and insults of those who have not a human heart."

And I published in the *Corriere della Sera* of August 12 a new protest. There were those who reproved me for having unexpectedly become silent, and I had to tell the causes that had imposed silence on me. I wished, moreover, to give voice to a thought of mine, ripened in hours of anguished meditation: to form a committee of independent men, representing international sentiment, for the protection of religious freedom.

MORE CONCERNING THE OPPRESSED JEWS IN ROUMANIA: REDEMPTION IS UNDER WAY

"Why are you silent? Because you despair of victory or through weariness?" Thus am I questioned with slight irony by a champion of religious freedom, who enters the lists with useless fuss and too late to be taken seriously. Certainly I am not silent because he speaks, this new upholder of the rights of the Jews in Roumania, who belongs to the class of those who harm the noble causes to whose defense they run. He insinuates that, after a trip through our country, for political reasons, of certain illustrious Roumanians, the Italian spirit prevails in me over the philosophy of the redemption of the oppressed. By our good fortune, an Italian has never been found unworthy in this conflict. Certainly we love Roumania; we feel the attraction of blood when we speak of them; we wish them all political and economic prosperity; so far as it depends on us we wish to help them achieve it.

But the manner in which she treats the Jews diminishes her morally before the civilized world; it expresses an inherent flaw in her political character, an organic inability to live freely, a weakness which may prove fatal to her. Therefore it is also out of love for Roumania, as well as because of a high constitutional duty which may not be trifled with, that we persist in our controversy. Here it is indeed a case of repeating the just saying, "He chasteneth that loveth well."

So if one were silent it is because of the heat of the fratricidal war in which the Roumanian Jews stood like brave soldiers in the vanguard in defense of their ungrateful country, a spectacle favorable to our cause and pleasant to record; if one were silent, it is because the Roumanians have been engaged in grave affairs and silence seemed proper toward them. Meanwhile, for the fate of the liberal doctrine, the word waits upon the deed. Our critic does not know this, and it is not important that he should know it, there being no need of his help in order to win; rather certain aids are of ill omen, they seem collaborators in defeat. At last there is a certainty of victory; the truth is on the path of light. Our appeals to justice were heard by the civilized governments, which were determined, at the opportune moment, as soon as the other terrible Balkan questions had been definitely settled, to request the Roumanian government with gentle firmness to put an end to that strange condition of things, according to which there existed in Dacia, as was shown for the first time in this journal, aliens without alien protection, serfs who were kept in such a state of political abjection as violated constantly both the letter and the spirit of the Congress of Berlin, which had solemnly decreed their liberation, invoking on their behalf also the declaration of the rights of men and citizens, the great achievement of the French Revolution. But, the less than Catonian censor continues, the Roumanian Minister Xenopol journeyed to Rome to quiet the effects of the polemics in favor of the Jews, and having returned to Bucharest stated in an interview that he saw several times Mayor Nathan, who did not say a word to him about it, and Luzzatti, who spoke to him about it at length, was not well informed on the condition of the Jews in Roumania.

I am not responsible for the silence of others, in whom I understand the circumspectness proper to a host; but it is true that I spoke frankly about it with the minister, who came to see me, and who is a political personage of no common merit. I told him of my old and constant affection for Roumania, of my wish that she should flourish in Roman fashion; we spoke of her excellent social institutions on behalf of the citizens, which Xenopol knows and eminently exemplifies, as befits a competent Minister of Agriculture. But of course when I expressed the hope of general provisions calculated to initiate the civil and political emancipation of the Jews, he replied that there were plenty of them in the several laws of naturalization, which in my opinion are a proof of the constant violation of the treaty of Berlin; if they emancipate some Jews by law, it means that others remain in a state of servitude; if they emancipate hundreds, if they make a selection of some chosen ones, it means that the thousands, the masses, still groan in slavery. And we parted most candidly, hoping every good for our two countries; but I concluded that in defending the redemption of the Jews in Roumania, which could not be put off, I manifested another form and manner of love for her.

How can a free state persevere in this flagrant offense against the most sacred of liberties? Let her proceed step by step in the emancipation; let her give civil equality without limits, full, clear, before political equality, but beginning promptly; let her accomplish the work of redemption for the honor of Roumania, for the honor of humanity! Let her take the initiative, and let her not seem forced by Europe to accomplish a work of civilization, to accomplish her international duty. . . .

I am ill-informed? . . .

There is no statement made by me which is not based on a profound and sincere examination of the documents; one may be less exact, careless, even partisan in the study of a constitutional thesis; but who does not feel the responsibilities and the obligations assumed when one is defending almost three hundred thousand souls, degraded, oppressed, despised?

Nor is it true that my information came from those unhappy ones; there are in Roumania some noble and disinterested men (liberal Christians or nationalists) who also demand the full liberation of those serfs. But the representations of the persecuted, in the study of religious freedom, are always shown to be true; the lies, conscious or unconscious, customarily come from the persecutors. The oppressed relate the griefs they suffer; and since the oppressions know no bounds, the relation is almost always true, especially because of the habit of slaves of bearing their ills with too great resignation. Besides, are the Roumanians ready to pass a law thus conceived: "All civil inequalities based on religion are abolished"? If these inequalities, as is claimed, do not exist, or do not exist as I have stated them—although Clemenceau, who has studied this sad theme thoroughly, acknowledges my statements as most exact—why do they hesitate to proclaim full and absolute civil equality, without distinction of religious faith? Then political equality would follow, since to-day with restricted suffrage (which will soon pass too in Roumania) it is feared that the Jews might have too strong a part in the national representation. . . . We have the certainty, to which the example of all the best countries bears witness, that civil equality brings with it at no great distance political equality; . . . they are sisters born of the same pure and adored mother, religious freedom!

But to another polemic of much more importance I am obliged to respond.

The Roumanian Minister of the Interior has replied to the recent remarks which I made to him in the *Corriere della Sera.* He repeats that the question of Article 44 of the Treaty of Berlin is no longer a question of international law. "To this pretense," he states, "the reply of every Roumanian statesman is and always will be an absolute *non possumus.*" Here the esteemed Minister Jonescu reviews the convincing arguments and the official acts, cited by me, from which it is seen that independence was recognized by the signatory powers of the Treaty of Berlin with expressed reservations, and taking account of the formal promise of the Roumanian government to obey Article 44 of the treaty. Well then, despite this *non possumus*, we assert that religious freedom, the emancipation of the Roumanian Jews, is and will be a permanent condition of the independence of Roumania.

The minister says the question is susceptible of all evolutions. Precisely; with our words we are trying to bring about the evolution of good, the evolution of liberty. But the minister's reply, full of cautiousness and dangerous reticence, contains a precious concession, which should be clearly traced. He is willing to admit that it may be treated as a question of international sentiment. Yes, yes, it is in the name of universal conscience, of that *charitas humani generis*, invoked also by the ancient Romans, that I have raised my voice to defend the Jews of Roumania. That is why I expressed and now express the hope that this Roumanian people of Latin stock, so active and so gallant, will accomplish spontaneously the reform to which it is advised by international sentiment, in its own interest, without its being necessary for outsiders to recall to it officially the forgotten agreement.

It is this international sentiment which now in France urges on Clemenceau to defend, in his journal *L'homme libre*, the Jews of Roumania. And I thank him for the full adherence which he wishes to give to my articles in the *Corriere della Sera.*

> "The Roumanian Jews are the last serfs still existing in Europe," wrote . . . [I suppress the courteous epithet] Luigi Luzzatti in the *Corriere della Sera.* And could not Pichon profit by the discussions which will be reopened, by taking up again the examination of this lamentable problem at the point to which Freycinet had conducted it?

The democratic soul of Pichon ranks with that of his great friend Clemenceau, with that of the Ministers of Foreign Affairs of Great Britain and of Italy. This Balkan tragedy cannot be closed without the sun of religious freedom shining on the blood shed for the fatherland. And since there are still in Europe aliens without the protection of foreign governments, there is need of a committee of independent men, strong and free, to represent that international sentiment of which Minister Jonescu speaks, to take the place of that foreign government which is lacking, to cause to be heard in Roumania the perpetual voice of religious freedom, in the name of that human conscience which has been violated.

If, as I hope, Clemenceau wishes to help this committee for the protection of religious freedom, he would have the gratitude of all the chosen spirits of the civilized world, and the Balkan problems which divide us so gravely would reunite us in the principle of blessed equality. Who better than he could make our Latin brothers of Roumania sense the immortal principles of the French Revolution of 1789, not debased by those of 1793? An international committee drawn from such names as Balfour, Eucken, Visconti-Venosta (who is with us in this defense of religious freedom), Finali, Ferdinando Martini, and other famous men, with the certain support of Wilson, the President of the Republic of the United States, will win the great battle.

The Italian Government too, in the person of the Honorable Giolitti and the Marchese di San Giuliano, received in those days at Fiuggi the Chief Rabbi of Bulgaria, declaring to him that it would support every step taken by England to obtain guarantees of the freedom of creeds.

And the United States objected officially; it asked the perfection of the Treaty of Bucharest. This necessity suggested to me the following article (*Corriere della Sera*, September 21, 1913):

THE REVISION OF THE TREATY OF BUCHAREST IS NOT ASKED, BUT ITS COMPLETION

The newspaper in which this new appeal is written to the liberals of the whole civilized world for the religious peace of Europe has maintained that one ought not ask for the revision of the Treaty of Bucharest; and, leaving it intact, there is need of an adjunct which will perfect it, and in this matter, with shining intuition, the United States of America has taken the initiative. That American people represents in constitutional law the only collective soul which is truly free in the worship of God.[1]

It is no wonder if, in the face of the fratricidal strife of nationalities and creeds in the Balkans, the government of the United States has taken the initiative which the history of civilization should record, and which cannot be ignored. The government has sent, through its minister at Bucharest, while during the past months the five Balkan states were negotiating peace, a note, of which the British Minister of Foreign Affairs was also informed, to the president of the diplomatic conference in London.

We shall try to summarize it briefly here. The United States expresses the wish that all the treaties to be concluded at Bucharest among the five states (Roumania, Bulgaria, Serbia, Greece, Montenegro) should contain a clause which will secure equality of civil rights and full religious freedom for the populations which pass from one state to another. It also, in short, asks the most exact reproduction on this point of the provisions in the Treaty of Berlin of 1878. What reply has been given by the representatives of the Balkan governments?

Majorescu, the Plenipotentiary of Roumania, President of the Conference, after having read the letter of Jackson, the Minister of the United States at Bucharest, made some singular declarations, which we take from the official reports of the peace negotiations. It is an allowable indiscretion, since it seeks to defend human liberty!

Majorescu declared that the delegates present ought to be unanimous in recognizing fully, in law and in fact, the principle expressed in the note of the minister of the United States, the public law of the constitutional states represented at the conference having for a long time consecrated the application of it.

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[1] [I repeat this unbounded admiration of mine despite the rise of the deadly sect of the K.K.K. and after they went so far, in Dayton, as to try a man for having taught his pupils, in a public school, the doctrine of evolution, which, indeed, I have always fought against myself.]

Therefore the president thinks that the note of the United States cannot raise any difficulty; but perhaps it is fitting to recall the principles, sometimes, even when they are universally admitted. For that reason he believes himself the interpreter of the sentiments of all the plenipotentiaries when he declares that "the inhabitants of any newly acquired territory will have, without distinction of religion, the same full civil and religious liberty as all the other inhabitants of the state."

Venizelos added that after the declarations of the president, which would be included in the Protocol, any particular insertion, in the treaties to be concluded, of a principle universally recognized, would be superfluous.

We are, as may be seen, in a veritable idyl of religious freedom! But if our information is correct the minister of the United States at Bucharest is not misled, by such declarations, into supposing that the Balkans, which were hitherto burning furnaces of religious persecution, have changed into an Eden of philosophic equality of faiths, such as flourishes in the United States of America. And most especially, the constitutional legislation of the various Balkan states is not so clear and so secure in the defense of religious freedom as it seemed to the conference.

In this journal there was discussed, in all its aspects, the question, with respect to Roumania, of the Jewish minorities. Certainly the Jews of Bulgaria, of Silistria, for example, who are now passing under the sovereignty of Roumania, will enjoy equality of civil and political rights; but will they enjoy them really, or theoretically? Has it not been seen that those of Dobrudja spent nearly thirty years there before being able to settle their position in Roumania? And in any case will not the woe increase the difference between the annexed, emancipated Jews and those indigenous ones, groaning in slavery? And will it not be more than ever necessary to bring about the liberation of these last, even if it begins by granting full naturalization, without equivocations and circumlocutions, to all those who served and are serving in the army? These demands extend to all the religious minorities of every kind and of every nation, Catholics, Ottomans, schismatics, etc., because God, who is the Father of all peoples, in those places divides and makes ferocious, instead of pacifying!

But these so evident considerations are not enough to set in relief the grave omissions in the treaty or treaties of Bucharest.

Reading the minutes and the protocols one notes how the Greeks asked special and specific guarantees for their communities in Bulgaria, and the Bulgarians for their people in Greece; and Majorescu asked for special security for the religious freedom of the Cutzo-Wallachians. Why did they not trust in the noonday light emanating from the constitutional principles of their public law, according to the unanimous reply given to the minister of the United States?

Because they themselves realized its generic inefficacy when it was a question of really protecting their own race, their own blood.

In the field of religious freedom the vague declarations of the rights of men and citizens serve only as prefaces and overtures of no value, if they are not followed by precise laws, technically worked out, and such as cannot be evaded. Otherwise, as the history of religious freedom teaches—which has always been up to now the history of multiform persecutions—the principles are declared with the intention of misleading public opinion, while in the very act of violating those principles with impunity. Of all constitutional liberties the last, the most difficult to establish, to pass from abstract declarations to acts, from ideas to customs, is the religious; and the attitude of the peoples in supporting its effects is a measure of its greater or lesser progress in public life.

Therefore the nonchalant self-assurance expressed in the Protocol of Bucharest by Majorescu and Venizelos leaves us very much worried. Roumania and Greece, according to those two eminent statesmen, and the other Balkan governments, had given such luminous proofs of religious freedom that they would be demeaned by affirming, by the bonds of the treaty, an ideal which they serve with zealous devotion! The United States of America, however, which has served *mundo corde* this great principle of the emancipation of all the churches, of all creeds, is less enamored, less assured, of itself, and after having engraved it in its federal constitution it explains it, with minute care, in the various constitutions and laws of its separate states. But however this may be, if, as it pleases us to believe, the declarations of the Protocol of Bucharest are sincere, what difficulty would the Balkan states have in completing their accords, at the request of the great powers, with explicit pacts more analytically precise?

Great Britain, France, Italy, also out of devotion to the principles of religious freedom, the other great states out of a candid desire to eliminate a disturbing element, fraught with dangerous discord in the Balkans, ought to be deeply interested in rendering public and effective homage to the initiative of the United States.

And since the government at Washington, moved by a high ideal (ideals are still kindled in the minds of some governments!), will persevere (we are sure of it) and will not be quieted by the declarations of the Protocol of Bucharest, the hope is not lost that, amid so much fraternal blood cruelly spilled in those countries, a ray of heavenly good will will shine at last on the Balkan misfortunes!

In the following month the Chief Rabbi of Bulgaria, after a journey through western Europe for the purpose of soliciting the action of the great powers, an action which, as I have said, had for a long time been desired by independent spirits, summed up his hopes in a letter of October 20, which I publish in the note.[2] And the same day Baron Edmond de

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[2] CHIEF RABBINATE
OF
BULGARIA

SOPHIA, OCTOBER 15/28, 1913

YOUR EXCELLENCY:

Back in Sophia I recall with deep gratitude the various interviews that I had the honor to have with Your Excellency in Rome, and the warm, one might say fraternal, Rothschild put himself at my disposal to defend the oppressed, wishing, he said, to follow the traditions of his devout family.

> PARIS, October 25, 1913
>
> YOUR EXCELLENCY:
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> I thank you for your letter. I was not in Paris when Dr. Ehrenpreis came here and I could not see him, but I received your letter through the *Alliance Israélite.* Permit me to tell you how happy I am to see a person as eminent as you and as universally respected take up the cause of our unfortunate fellow Jews, and defend them against the tyranny which weighs upon them in certain regions of the Balkans. You may rest assured that my support will not fail you within the measure of my power, and I shall thus follow the traditions of my family, which has always placed the protection of the oppressed Jews in the forefront of its thoughts. I had already had occasion to discuss the question with our Minister of Foreign Affairs,

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help that you granted to me, for which I shall be deeply grateful all the days of my life.

Commendatore Sereni and our Minister Plenipotentiary, Mr. Rizoff have advised me of the article you published in *Corriere della Sera,* and I would be indebted to you if you would send me a copy.

Our matter progresses; M. Pichon, to whom I presented your letter, and who is deeply concerned about your health, has declared to me categorically that he will accept "without reserve and without restriction," our request, and that we will receive energetic coöperation from the French government on the occasion of the formal ratification of the treaty of peace of Bucharest which will be entrusted to the Conference of the Ambassadors in London.

M. Clemenceau has welcomed our initiative with enthusiasm and has promised me his help. I communicated to him your point of view concerning the continuation of the campaign in behalf of the Roumanian Jews, and he told me: "When Signor Luzzatti thinks that we ought to continue we shall continue. I am at your entire disposal."

Sir Anthony Nicholson has favorably received our petition, but he has not given me a clean-cut answer about Giolitti's and Pichon's desire that the British cabinet should take the initiative. Prince Borghese, whom I visited in London, will intervene in this sense. The Jewish circles in London, including Lord Rothschild, will warmly support our action. You will soon receive the copy of a very interesting memorandum addressed by the Jewish Conjoint Committee of London to Sir Edward Grey on this subject. It goes without saying that Count Berchtold, whom I have seen lately, lends his energetic support to our action.

The chief newspapers are everywhere in our favor. The *Westminster Gazette* of September 27 defends our action in an editorial by Mr. Spender. Lucien Wolf has published two articles in the *Graphic* of September 27 and October 4. The *Neu Freie Presse* of the 24 inst. likewise publishes an interview with me on religious minorities in the Balkans, without naming me, but referring to a "spiritual leader" of the Balkans.

Your Excellency may see that the matter is well prepared and that we must continue our campaign. As stated in Rome, we count on Your Excellency's help. Just now, when the settlement of the Balkan crisis is approaching, the psychological moment has come in which you may raise your powerful protest (either again in the *Corriere della Sera* or in a foreign newspaper like the *Neue Freie Presse*) for the protection of the religious minorities of the Balkans. M. Clemenceau shares our opinion that our formula embraced an essential part of the Jewish question of Roumania.

I beg that you will try to convince Messrs. Giolitti and San Giuliano of the necessity of communicating expressly to the British Cabinet the previous consent of Italy for that initiative, and I should be very grateful to you if you would let me know what will be the result of your efforts in that direction.

I shall continue to keep you informed of all which will take place in the matter which may be of interest, and I am, etc.,

DR. M. EHRENPREIS.

who promised me that as soon as it will be officially presented he will be glad to give you his support and to try to come to an agreement with the representatives of Great Britain and Italy. Thanks to Your Excellency's high situation in your own country there is no one better qualified than Your Excellency to convince the European governments that they ought to examine a situation as grave as that which occupies us. I shall be most happy—if I can be of some use—to take all necessary steps.

I am, etc.

ED. DE ROTHSCHILD

ROME, October 31, 1913

SIR:

I have just received your letter, inspired by the noble traditions of your family in the defense of religious freedom. This, which is both a right and a duty, is passing through a very difficult period in Russia and in Roumania, and it is necessary to oppose strong resistance, raising the banner of the inviolability of human conscience. For what concerns me, you will find me ready. We must to-day wage a great battle and win a victory similar to that which French democracy achieved in the Dreyfus affair. All reactions begin by creating a case against the Jews, martyrs of history!

I am taking the liberty of sending to you a distinguished friend who is willing to take up the cause of the oppressed. I beg you, sir, to receive him with the same confidence with which his noble figure of scholar and fighter inspired me.

Accept, etc.

LUIGI LUZZATTI

But in Roumania the situation darkened. The Liberal party remained hostile to the Jews, the students were threatening, the Nationalists took up again their hateful campaign and the "Cultural League" published a bellicose and anti-Semitic manifesto and held a meeting at Jassy, delivering violent speeches against the Jews; the same occurred in Bucharest and Calarasi. I publish in a note the motions adopted at Jassy, at Bucharest, and at Calarasi.[3] Meanwhile the government kept silent. An illustrious

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[3] Text of the resolutions adopted at Jassy and Bucharest in the assemblies of the League of Culture, and text of an anti-Semitic manifesto published at Calarasi:

Jassy Resolution

The citizens of Jassy gathered in the National Theatre to-day, November 8, 1913, upon convocation of the Committee for the Cultural League of all Roumanians:

Having seen the provoking movement of native Jews who demand mass naturalization;

having seen the declarations made by some politicians of the government parties concerning the solution of the Jewish problem in the sense of the modifications sought by the Jews;

having seen the notices appearing in the official organs of the government, by which it is affirmed that the Council of Ministers has decided to naturalize at one blow and by a single bill all the Jews who had been mobilized on the occasion of the latest events;

considering that the Jews are not assimilated to the Roumanian people even economi-

and most upright man, outside of Roumanian society, informed me of it with these words: "*Vous voyez que la lutte s'annonce violente et que les*

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cally, since they refuse to admit, as is well known, Roumanians in their stores and workshops;

considering that they possess a foreign culture which has no affinity with our Latin culture;

considering that military service and a few weeks' campaign, exempt from the dangers of a real war, do not constitute a sufficient title to trample under foot the fundamental laws of the country;

considering that all naturalization by collective list is an obvious violation of the law which cannot be unrecognized in its letter or in its spirit;

considering that in the present state of our electoral system the mass naturalization of 20,000 Jews would mean the preponderance of a foreign element in constituencies which direct to-day the destinies of the country;

considering that from an economic point of view the naturalization of these Jews would be equivalent to the alienation of rural property and its passage into the hands of the Jews, who are already masters of industry, commerce and the trades;

considering that the aggressive tone of the Jews' applications, united to the provocative agitation and the hateful calumnies spread abroad—provocations and calumnies against which no word of protest has been uttered by those who are subject to naturalization—injure the good name of the country;

considering that if the rights sought are granted to the Jews, Moldavia especially would be lost for Roumania;

considering that Article 7 gives a sufficient satisfaction to all foreign elements which are really assimilated and defend our legitimate Roumanian interests;

considering that this article is the result of an agreement established between us and the European powers which are entrusted with the execution of the Treaty of Berlin;

For these reasons, this meeting believes that it is its right and duty to demand:

1. That Article 7 of our constitution remain a provision absolutely inviolate. We cannot admit the least violation of its letter or spirit.
2. That measures be taken to protect the Roumanian element, whose economic life is non-existent.
3. That an effective supervision be exercised on the infiltration into the country of foreigners who afterwards declare themselves to be natives and demand rights.
4. That measures be taken against Jewish agitators who abuse the right of assembly, which the constitution grants only to Roumanians, threaten the latter, and disturb public order, which will end by provoking serious disorders.
5. That the Jews be exempt from military duty, it having been proved that they do not possess any military qualifications.

Bucharest Resolution

1. Considering the irrebuttable proof that the agitation of the "Union" is the apparent and deceptive work of the Semitic Masonic Association "B'nai B'rith," the Great Master and seat of which are in New York (U. S. A.);
2. considering that this order has for a long time caused anti-Roumanian agitation in the country and finds blind and treacherous allies in the affiliated lodges of Roumania, united to the so-called Ninth District of the order;
3. considering that it is established that the Ninth District of the order I. O. B. B. is prepared to subjugate our country by means of a network of banks of commerce and industry, endowed with great foreign capital, which will be exclusively put at the service of the Jewish population of the kingdom;
4. considering that the action of this order is audacity without parallel in effecting the organization of a state within a state;

The citizens of the capital, assembled upon convocation of the *Liga Culturala* on November 10, decide to petition the Ministers of the Interior and Justice;

1. To order an inquiry by the magistrates and the police in all the cities where there are lodges of the I. O. B. B.;
2. To propose and secure the expulsion of all foreign agitators and members of lodges which function in violation of the principles of the constitution of the country;
3. To give thus entire satisfaction to this country, morally disturbed by these agitations and by the greatest ill-use ever made of our hospitality on Roumanian territory;

perspectives sont mauvaises. Votre action devient donc plus necessaire que jamais; c'est de vous et de vos amis que viendra le salut."

In fact, Take Jonescu, Minister of the Interior and head of the Conservative-Democratic party, declared, in an interview of December 3:

> We had wished to naturalize the mobilized soldiers. But the situation has grown worse. I receive protests from the whole country against the naturalization of the mobilized Jews [the idea of the total emancipation of all the Roumanian Jews had been forgotten then, and they no longer talked about doing more than naturalizing the soldiers!], and even from the clergy. The king too has received them, and is disquieted and opposed. There is nothing left but to vote for the individual naturalization of as great a number as possible. As for the mobilized soldiers, the Liberal party will have to take care of them, since we give up our power to them in January. As you see, it is impossible to do anything else, and it is a pity. On the contrary, during the campaign in Bulgaria there was an atmosphere very favorable to the cause.

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4. The Minister of Public Education is hereby petitioned to examine:

a. the figures of subsidies granted to Jewish schools by the I. O. B. B. lodges and the influence acquired by these subsidies;

b. to ascertain to what extent the teachers in those schools collaborate—or do not collaborate—with the political actions of the lodges and of the Union.

Text of the Anti-Semitic Manifesto of Calarasi

APPEAL

Roumanian brothers:

A new danger is threatening us! Hardly has the country escaped Bulgarian barbarities, thanks to its children who have defended it, than the accursed parasite again raises its head!

The Jews demand mass naturalization!

After they have besmirched our country, introducing into it all sorts of corruption, after slandering and ridiculing us in the country and abroad, after slandering us in the eyes of Europe, calling our country a Roumanian hell, they now wish to become citizens of that hell.

Nearly all commerce and industry are in their hands and the richest products of a part of the Roumanian soil, bathed with the tears and the blood of our ancestors, are devoured by the Jews.

The only branches of activity of which we remain masters in our country are: political independence, small trade, small industry, and especially agriculture; the dirty insects wish to put their hands even on these.

Let us not permit that, Roumanian brothers, for our indifference would be fatal, and were we to remain passive our dear country would become ashes and dust.

Let us fight with energy, and if necessary let us drive out beyond our frontiers these beastly intruders who come from all parts into our country.

The Roumanian peasant must be helped in the first place, and never the accursed foreigner.

By reason of the audacity of the Jews who abuse our hospitality, the "League of Culture" warmly appeals to you and calls upon you, Roumanian brothers, to come in great number to the Nationalistic meeting which will take place Sunday, November 10, at ten A.M., in the hall in our Municipal Park, where we shall let those who are at the head of the state know that the time has not yet come to proclaim those foreigners who detest our country, and do not even know our language, Roumanian citizens.

They must know that it is not well to take away the bread from our children and give it to dogs!"

The necessity of forming an International Committee then became absolute. The struggle for freedom undertaken by the native Jews was not enough. They formed too slight a population to be able to impose their desire on the parties of the government. With action methodically organized and continued, the committee would be able finally to conquer the bad faith and the hatred of official Roumania against the Jews. Roumania had economic, social, political, and natural interests, the success of which depended in great part upon foreign coöperation and on the public opinion of Europe. The protest of the civilized world would be able to induce her to solve the Jewish problem. Perhaps Roumania was permitted to misuse that minority, to expel hundreds of Jews from the country, to drive tens of thousands of families from the rural districts, to pass hundreds of laws of exclusion, because she knew that in the whole world there was not an authoritative voice nor any organization to protest.

As its first act, the committee had to address a sober and persuasive protest to the Roumanian government; I asked some influential friends of mine, both Italian and foreign, for their support, and it was prompt and cordial. And it was then that, in full agreement, we formulated the following appeal:

APPEAL FOR THE DEFENSE OF RELIGIOUS FREEDOM

It is a lamentable fact that in the twentieth century, the century of light and of freedom, religious intolerance still flourishes. The charter of the rights of man, the fruit of centuries of struggle and of noble efforts, is still repudiated in certain parts of the world and even in Europe. The only difference between the intolerance of to-day and that of preceding generations is that the modern interpreters wish to mask it with ethnic, economic, and national considerations; but at bottom there remain always all the passions, all the prejudices, all the superstitions of past times.

May the conscience of the civilized world not be slow to awake and affirm the solidarity of human peoples. For the honor of the twentieth century, may the citizens of every country, jealous of their rights, rise to defend the victims of religious and social intolerance. Europe still has slaves.

The injustice cannot long resist the stimulus of civilized opinion. The formation of the present committee is explained and justified by the idea that questions of general human interest can and ought to be the subject of international action, outside of all the distinctions of race or nationality.

To this committee we wish to intrust this great mission, which should be accomplished on behalf of all minorities oppressed because of their nationality or their religion.

Problems of this sort truly serious and urgent have developed in the Near East in consequence of recent political acts.

Among the victims of these errors who deserve particular attention are the Roumanian Jews. The Jewish question in Roumania, which embraces more than 250,000 souls, is familiar to all. Despite the decisions of the Congress of Berlin requiring that state to grant civil and political rights to all the indigenous inhabitants without distinction of religious faith, and despite the formal promises in this sense given by Roumania, she continues to deny all rights to the Jews. Even to-day they are officially considered "aliens without alien protection," men of no country, who may be expelled by an administrative order and without the least justification. Moreover, from 1879 on, almost two hundred laws or provisions have been applied against these "aliens" (to use the term adopted by the Roumanian Parliament and administration to designate the Jews), to the end of restricting their freedom of occupation and of depriving them of the means of earning a living.

They are prohibited from holding public offices, pursuing professional careers, residing in rural communities, owning lands. In commerce and industry they are subject to innumerable restrictions. They are practically excluded from the public schools. On the other hand, while they are treated as aliens so far as the rights of citizens are concerned, they are subject to all civil duties and burdens. Among other obligations they must render military service, even though all the doors of promotion are closed to them.

The consequences of this drastic legislation have been disastrous. Tens of thousands of Roumanian Jews have been forced to quit the country. Tens of thousands, driven from the rural communities, have been crowded into the cities, where their already prevailing misery has been aggravated. Europe presents no other instance of such a state of things. One might suppose that the condition of the Jews of Russia was worse, but it is not so. If the Russian Jews are more exposed to pogroms and subject to a great number of restrictions from the legal point of view, they are still better off: they are Russian citizens, they can vote and be elected. The Roumanian Jew instead is considered an alien, a vagrant without shelter in the country where his fathers and his grandfathers were born.

In 1913, when Roumania appealed to her children, the Jews enlisted enthusiastically beneath the national banner and performed their military duty. On that occasion public opinion did justice to their patriotism, and the government admitted the possibility, even the necessity, of settling the Jewish question favorably.

But with the war scarcely over this liberal arrangement disappeared. Therefore, so long as the Jewish inhabitants of Roumania remain outside the law, and a country is denied to them, the conscience of the civilized world should struggle for those unfortunate ones. This will be one of the tasks of the International Committee which is being formed.

It is unnecessary to add that this action does not imply any feeling of hostility toward Roumania. We cherish the most friendly feelings for that beautiful country, for which we sincerely wish all prosperity. But we believe that a prompt solution of the Jewish question is necessary in the interests of Roumania herself. In persecuting a fraction of her subjects she loses a great part of that moral prestige which is necessary if she is to realize her aspirations.

But there is more; the emancipation of the Jews is a duty imposed on her by an international treaty, and it is unnecessary to insist on the perils of such a violation.

The committee has high hopes of succeeding in enlightening public opinion in Roumania herself, and in winning over the best children of that country. There too champions of the liberal cause and of human dignity are not lacking. Thus a new link will be formed in the chain which should unite humanity in brotherhood and universal sympathy.

We trust that Europe will lend to the committee its sincere aid in this great work of religious freedom, which is the foundation and source of all other liberties. The particulars of its organization and its plan of action will be published shortly. Our task is limited to obtaining for it the help which it deserves from all friends of progress and of humanity.

LUIGI LUZZATTI, *ex-Premier*
Marchese E. VISCONTI VENOSTA, *ex-Minister of Foreign Affairs*
GASPARE FINAL, *President of the Corte dei Conti*
G. CLEMENCEAU, *ex-Premier and Senator*
AL. RIBOT, *ex-Minister and Senator*
ANATOLE FRANCE
TH. RIBOT, *Member of the Institute*
F. BUISSON, *President of the French League for the Rights of Man*
JEAN JAURES[1]

This appeal we sent to Premier Bratianu of Roumania with a letter from me. I received the following reply:

PRESIDENCY OF THE COUNCIL
BUCHAREST, Feb. 22—March 14, 1914

MY DEAR SIGNOR LUZZATTI:

The friendly tone of your letter cannot diminish the deep regret which its contents caused me.

The eminent statesman whose great fame has, for a long time now, passed the bounds of his great and noble country, could not be unaware how difficult it is to legislate for others. Only those who take part in the life of a country and carry its responsibility are competent to decide the conditions which are necessary to its existence, and are entitled to provide the means that may guarantee its stability.

The first duty imposed by patriotism on those who, like you and me, do not think that the fatherland idea is an anachronism and an obstacle to progress, is to assure the development of the country to which they belong. A love for humanity entertained outside these limitations could not countenance the recent actions of states which are justly counted amongst the most civilized countries. Neither the war against the Boers, nor your glorious campaign against Libya, nor the military campaign of France in Morocco, can or must be judged from a strictly humanitarian point of view. If one were to neglect the considerations imposed by the balance of power in the Mediterranean or by national exigencies, it is hard to say that the present situation of the Egyptian fellahs, the Tripoli Arabs or the Moors of Maghreb is due only to a humanitarian feeling. I speak only of the old continent, although in the New World Mr. Roosevelt's country might supply us with more than one point of comparison. I entertain a great sentiment of esteem for the distinguished personality of the ex-President of the United States; but in this line of thought no one is a prophet in his own country, and America is still waiting for a European Roosevelt who will come to settle the matter of the colored people, yellow or black, in the mightiest and freest of republics.

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[1] Others who agreed to become members of the committee were Roosevelt, Bryce, Lord Rothschild, Vandervelde, Bernard Shaw, and other eminent men both Italian and foreign.

I am purposely citing the acts of noble people belonging to a superior race, of those who, in Europe or elsewhere, represent in a brilliant way not only civilization but also the most generous ideas of progress and liberty.

The men who rule those countries have understood that it is only by serving their nation, in assuring it the possibility of living, in giving it the means to prosper, that they can justify the pretense of serving humanity.

The welfare of each of all the nations of the world being the only possible service to humanity, the best course for a statesman of promoting it can only consist in the practice of watching over the interests of each separate nation. Thus neither you nor I should like to renounce, in the name of humanity, the right which every nation, large or small, has to watch over its own interests, for the independence of all countries has an identical character, which does not vary with the number of its inhabitants or the extension of its territory.

As concerns the independence of Roumania, this is far from being —as the authors of the "Appeal" which accompanies your letter seem to think—the result of foreign benevolence, and could in no case depend upon it. The great European interests, to which the existence of this country was necessary, have certainly aided the achievement of this independence, but over and above all it is due to the faculties, the work, and the sacrifices of the Roumanian people. This independence is the natural result of all our national development; it does not enable anybody to discuss to-day this independence, in the same way as *si parva licet componere magnis*, it does not enable anybody to destroy the great work of those who have made modern Italy.

No internal question could to-day lead to an intervention or an international solution, for political and social problems exist in each state in a different manner, and only the solutions presented by national organs in full cognizance of them may solve them in a radical manner.

The status of the Jews in Roumania is purely an internal problem. Those who try to give it another character do nothing but put in evidence cosmopolitan solidarities which exist outside the boundaries as well as outside the interest of the individual nations. This tendency could only jeopardize the work of men who desire the complete fusion of the Jews with Roumanian society.

I think myself warranted by the cordial tone of your letter to take the liberty to tell you very frankly that you cannot be a court of last resort in a debate, the true solution of which those very persons who know this country and live in it have great difficulty in finding.

The Jewish question is not, as you seem inclined to think, a religious question; the Roumanian people is too tolerant by nature to envy the Inquisition's laurels, and it is too humane to be a persecutor. The best proof of their religious tolerance is the status enjoyed by the Mohammedans in the Dobrudja region, where they willingly acknowledge that no Christian state was ever more liberal toward the members of that religion. The situation of many naturalized Jews, descended from the old colonists settled long ago in Roumania, who are professors, bankers, journalists, physicians, lawyers, who participate in all our national life and are not distinguished from the natives, is another proof of this tolerance.

Unfortunately toward the middle of the nineteenth century a great mass of emigrants from Poland and little Russia, converted to Judaism in the Middle Ages,[2] with origin and a language foreign to

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[2] I doubt the accuracy of this statement. It is true that in the ninth century a tribe called the Kusari or Chazars, inhabiting the Crimea, was converted *en masse* to Judaism and that from this tribe broke off the groups which reached Poland or were scattered over the rest of Russia. Pertile has shown in his *Storia del diritto italiano* (Vol. III, second edition, p. 216), that toward the end of the Middle Ages and the beginning of the modern age, the Jews enjoyed special financial exemptions and notes the statement of Raumer (V, 351) "that in Hungary they paid so few taxes that Christians passed over to Judaism to enjoy that advantage."

It is probable therefore that among the masses of Jews settled in Roumania in the last century there were also some of the descendants of these converts to Judaism. But how can one affirm that they all belonged to the category of converts?

And why consider them inferior because they had embraced Judaism? They were not Christians but definitely pagans; they did not even have the demerit of having quit the Christian faith to embrace another. For if anyone wishes to state that they abandoned the Christian faith for the Jewish I point out that the above-mentioned tribe of the Crimea was converted *en masse* to Judaism in the ninth century, even before Christianity penetrated into Russia. It is known that Russia began to have knowledge of the Gospels (and from the less pure source of Byzantium) only in the ninth century through the traffic which bound it to the Eastern Empire. The Grand Duchess Olga was baptized ours, crossed our frontiers. These immigrants, addicted for centuries to trade and usury, superimposed themselves on a population which historical circumstances had kept in a primitive economic state. The growing poverty of the peasants, to which the presence of these newcomers had contributed so much, especially in Moldavia, jeopardized the very foundations of the state. A great social problem had thus arisen. The national development required an economic organization capable of checking the evil. The magnificent coöperative movement of Italy, to which you brought such a great contribution, and which rescued the poorer classes from the menace of profiteering middlemen, gave us an example which has not been lost for us. Thanks to it, the situation is now considerably improved.

Our present reforms have the purpose of completing this improvement, and the day on which our aim will be realized the economic conflicts will have lost their importance. Once the work of assimilation of the foreign element is completed, no further obstacle will prevent a political equality as broad as possible and a complete fusion of ethnic elements which then could no longer alter that ethnic character that Roumania wants to preserve at all cost.

The admirable cosmopolitan solidarity of the Jews can perfectly well accord with the national life of a people, or at least it can involve only unimportant disadvantages, when it is exercised within the frontiers of a country like Italy, where the small number of Jews and the long process of their assimilation has allowed them to be permeated by the atmosphere of the country where they live, to such a point that their descendants are proud of the Latin character of their country.

Our nation intends to maintain in the future also, against all, that Latin character for which Roumania, even at the time when it was only Moldavia and Wallachia, imposed on herself such heavy sacrifices in a past full of danger, and the Italian representatives *par excellence* of the Latin race would certainly be the last to reproach us for it.

In our country Jewish solidarity manifests itself under conditions which might endanger our national development. The great mass of the Jews, their too recent sojourn in the midst of a people where hospitality has always been considered as the first virtue, have not yet permitted the foreigner, who has entered our home only lately, to transform himself into one of us.

The very appeal that they are making at this time to your intervention constitutes a proof of their present national conception. I

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in 955 and her nephew Vladimir caused his people to be baptized *en masse* in the Dnieper in the year 988, that is, in the tenth century. (See the *Kirchengeschichte* of Father Meinrad Bader, Innsbruck, Druck und Verlag von Fel. Rauch, 1904.)

The attribution of Roumanian anti-Semitism (generated by a complex of reasons) to these masses, even if they were of inferior civilization like all wandering masses, seems to me dictated rather by opportunism than by historical precision. (Author's note.)

am certain that no Italian, Jew or Catholic, would admit that the religious question or any other question born within the limits of the sovereign state of Italy could be decided, or even discussed, under the conditions indicated by the "appeal" which you are sending to me. Thus this document, as well as the sentence which ends your letter, gives your proceeding a denunciatory character, tending to show in the modifications that you propose to have introduced into our constitution something different from the advice of a friend, the latter being an indispensable condition to becoming the object of a discussion of such propositions.

The great respect which I have for your eminent qualities, for the notable work which your country owes to you, my gratitude for your words of personal sympathy that you were kind enough to express, oblige me to tell you that your good faith has been imposed upon, and that you have not been well informed about our legislation. It would be easy for me to prove to you that, far from being prevented from earning a living, the Jews occupy in Roumania a considerable and even a preponderant place in commerce, industry, and the trades. As for the so-called material violence and moral complaints exercised against them, I know nothing of the kind, and I am better situated than anyone to know of them.

Certain enemies of Roumania employ tactics against which I should like to warn a sincere friend and a friendly country; that is, by proceeding by way of vague intimations, giving only rare instances which are subsequently proved to be untrue.

Thus, induced by the very interest shown by your letter, I cannot help making an appeal to your heart and your intelligence to ask you to give up an undertaking, the results of which could only harm those who are dear to you. Harmful to the Jews of Roumania first of all, this campaign would place in evidence the incessant recourse to foreign support, and thus would discourage for a long time those who desire to accelerate the process of their assimilation. Harmful, in the second place, to the great and legitimate situation of Italy in Roumania, dangerously put in jeopardy by such an offense against the dignity of a people to which it is bound by ties of blood, and in the third place, harmful to Roumania itself, against which you would try to rouse difficulties and toward which, however, you assure me that you nourish only feelings of sympathy and even of admiration. Your mind, so Latin, manifested in the great fruitful work of your life, cannot crown such a great career by a sterile undertaking which has but a negative character.

Accept, etc.

ION T. C. BRATIANU

Bratianu accused me of having assumed a threatening attitude toward Roumania, but he deceived himself. The signers of the appeal and myself were filled with sincere admiration and friendship for that small country, which had reached its present state of prosperity and its position in eastern Europe by heroic sacrifices and efforts. For the rest, we had stated precisely what were the means by which we proposed to obtain the desired results. It was a matter of purely persuasive means, which should not exceed the limits of the propaganda used in such cases: pamphlets, conferences, conventions, etc. The idea of a threatening character was so foreign to our intention that we even called upon the Roumanians to join us in our work. And it is obvious that we could not have invited the Roumanians to coöperate in an action against their own country. The comparison with the Italian campaign in Libya and the French campaign in Morocco, with the position of the fellahs in Egypt and the Arabs in Tripoli, the Moors in Maghreb, and the negro inhabitants in America, did not apply, the situation being entirely different. While we have been glad that the Arabs of Tripoli consented to becoming Italian countrymen as soon as possible; while France made tremendous efforts to bring the Moroccans closer to her culture and her life, and the negroes of the United States were citizens of that republic, the Roumanian Jews (and this is the dominant side of the question) were struggling to be recognized as Roumanians, and were treated instead as aliens without alien protection.

Bratianu stated that many Jews had come into Roumania toward the middle of the nineteenth century, but the Roumanian historians themselves have established that a large number have been settled in Roumania for centuries, and those coming at the beginning of the nineteenth century (not only toward the middle) had been called by the reigning princes to found towns and cities, to develop commerce, industry, and trades. We also agreed with Bratianu that the Jewish question was an internal question for Roumania, but this did not prevent men of all countries, friends of freedom and justice, from bringing influence to bear on the administrators of the Roumanian state, and with them to bring about the triumph of these principles. Every time a question of justice and liberty is presented to the conscience of the civilized world there are always found, both in the country itself and beyond its frontiers, men who have a passion for the right and unite to enlighten public opinion, to act on behalf of the oppressed. In doing this one does not violate the sovereignty of a state or impede its freedom of action. In fact in the controversy with Take Jonescu he had recognized that, if the Jewish question did not fall in the domain of international law, it might well be a question of international sentiment. And it was on this ground of international sentiment that we wished to place ourselves, on the score of human solidarity. And then how was this sentiment to be prohibited from manifesting itself on behalf of a population which had been held in a state of undeserved inferiority because it belonged to a different religion?

And here I know I have in agreement with me the pure, serene, sincere spirits, the meek and upright hearts, who indeed love their country but do not forget humanity. There is, for example, the way in which Channing,[8] that clear, deep soul so seriously devoted to the search for truth, expressed himself in replying to a partisan of slavery in the Southern states:

> Our interposition is not wanted. . . . Well then, I maintain that there is here a moral interposition among our fellow men at home and abroad; it is a duty as well as a right. Who of us would feel himself obliged to keep silent because the atrocities were committed beyond our borders? Who would dare say that the tortures of the slain do not concern us, if they do not take place within our parish or our country? Is humaneness a local sentiment, perhaps? Ought sympathy to stop at the frontier? Does the heart contract and grow hard, perhaps, on approaching an imaginary line on the surface of the earth? Is moral indignation provoked only by crimes perpetrated before our eyes? Does a man cease to be our brother when he lives in another state? Or does liberty mean nothing to us if it is trampled under foot at a short distance?
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> Christianity teaches a different lesson. Its spirit is made of unbounded love. One of the greatest truths is human brotherhood. Under its impulse Christians send preachers of the cross to far countries to attack deeply rooted institutions. The spiritual ties which bind mankind were not woven by human polity, nor can they be broken by statesmen. How can a state which does not observe liberty call the interposition of others an assault upon its sovereignty?
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> We must admit the right and the duty of men to oppose the force of moral reproof to the prevailing moral ills, whether these a rise in our country or in another. It is false to affirm that a nation has not the right to interpose morally in the question of another nation. Every community is responsible to the other communities for its laws, for its customs, for its character; not responsible in the sense of being open to physical punishment or to force, but to just reprobation and disparagement. And communities are obliged to exercise this moral control reciprocally, and they should always intensify it, as intelligence and civilization are extended. Not the judgment of the courts of justice, but the moral judgment of the individuals and the masses, is the principal barrier which defends property and life. With the progress of society this power of opinion takes the place of armies. . . .
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> I claim the right to intercede on behalf of the oppressed, whether they suffer in this or in another country. I deny resolutely that a people may take shelter from the moral judgment of the world behind its nationality. Because it constitutes itself a state, and forbids that a single voice be raised within its borders in defense of the wronged, because it smothers the weak beneath its laws, does it

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[8] Greater than his fame!

> think, perhaps, to set a seal on the lips of foreigners? May it in this wise disarm the moral sentiment of other states? Is it a right of sovereignty that a people, no matter how blameworthy, should remain without reproof?
>
> Before the tribunal of the civilized world, and before the even higher tribunal of Christianity and of God, the oppressor peoples must reply. . . . When a community by its statutes and with its armies adopts and maintains an iniquitous error, then good men of all the world are obliged to write against it, in stern and solemn remonstrance. . . .

Bratianu referred to the fact that the Jews have been for centuries given to commerce and usury, and at the same time did me the honor of remembering my work in the creation and organization of the coöperative movement in Italy. Commerce and usury, then, are practiced everywhere, among all peoples and in all times. But in Roumania was it really the Jews who practiced usury?

And it made a painful impression upon me to learn that he shared with the anti-Semitic literature the opinion that "the Jews had contributed to the growing poverty of the Roumanian peasant, especially in Moldavia," and that "they might have compromised the very foundations of the state."

It did not seem to me that any truthful inquiry had ever proved the truth of these assertions. From the objective opinion which I formed on the basis of contradictory reading on this subject it appeared clearly that the Jews did not merit such grave accusations, accusations which, moreover, had never been proved. As far as the peasants of Moldavia are concerned, their poverty was due (according to proofs by Roumanian writers and statesmen) to certain economic facts, and not to the Jews, who had, indeed, contributed to the amelioration of the general condition of the country, developing commerce, industry, and trades. Between the two societies there had never been conflict, but rather a strong community of interests.

Moreover, even without too much argument, the impossibility of such disagreement seemed clear. The Jews were not subjects of another nation, whose interests could be contrary to Roumanian interests. They had, like all the rest, the basic interest that the country should prosper, and having no national or cultural aspirations elsewhere Roumania's national and cultural interests were naturally theirs.

In fact, at that time I read in foreign language periodicals published in Bucharest (*Das Bukarester Tageblatt* and *La Roumanie*) the protests of the peasants of Moldavia against the expulsion of the Jews from their villages. And these seemed to me clear documents. Nothing, on the contrary, was published to prove the contribution of the Jews to the growing poverty of the country.

To assert, then, that in Roumania religious persecution had no place was to confuse religious freedom with freedom of exercising a creed. Or else in denying religious persecution they admitted persecution of race.

Looking thoroughly into the matter, however, it was evident that it was a case of persecution, both religious and racial. Usury, commerce, the poverty of the peasants, the conflicts of interests, were a crescendo of prejudices and passions produced by hatred of these unhappy ones, solely because they were Jewish.

And how could Bratianu speak, in this class of ideas, of "the admirable cosmopolitan solidarity of the Jews?" If this solidarity really existed, if it were not a legend, its effects should have been felt to the advantage of the Roumanian Jews long since. Moreover, how and where has this solidarity manifested itself, which, according to him, put "the national development in danger"? If this had been proved, I should have desisted at once from my action. And then he added that their having appealed for my intervention showed a lack of patriotism. Now what was wrong in their appealing abroad, if they found neither support nor encouragement at home in their struggle for emancipation? In any case I had intervened before any appeal whatever. An attentive and impassioned observer of the progressive and humanitarian movement in the world, my sympathy for this cause had already been aroused for a long time. It is not enough to study the motive of the oppressions and to take pity on the victims; it is also necessary to struggle for the triumph of the principles themselves. . . .

It was useless to insinuate that my good faith had been abused. I would never be pledged to any action lightly, and without having studied and probed it in detail. Therefore I was ready to furnish proofs for all my statements. I had before me the list of about two hundred laws or provisions in force, relative to those branches of life from which the Roumanian Jews were excluded. I did not believe, therefore, that it was a question of vague insinuations, but of real, concrete facts. I had read the documents proving the tendency of the government to exclude them from the economic life of the country. I had read the laws which, even in the domain of industry, commerce, and the trades, imposed restrictions on them. And perhaps the expulsion of tens of thousands of these unfortunates from their native villages was a legend? The dreadful misery of the Roumanian Jewish masses a myth? There were, indeed, a few Jews who had achieved material well-being, but the majority of the population dwelt in constantly increasing poverty. And was this misery not, perhaps, the consequence of their expulsion from the rural districts, which forced them to crowd into the cities, where they could not earn a living because of the innumerable restrictive laws? What should we call these deeds, if not persecutions, since the Jews were guilty because they were Jews? Bratianu denied the restrictions and the moral and material outrages; but the expulsion from the country, especially of the intellectuals who dared to strive for Jewish emancipation or take part in the political movement of the country—this did not, perhaps, constitute a restriction? And was not the application of the law of expulsion a terrible means of moral and material outrages? The very right of assembly and propaganda, permitted everywhere, was denied them.

But what moved me more deeply was the secret order which prevented the promotion of Jewish soldiers to the rank of non-commissioned officers! To cast the suspicion of espionage on its own soldiers, while they were serving their fatherland, was an incredible thing, and demonstrated the very depth of the evil!

And the letter adds that after the reforms the economic conflicts would lose their importance. And the political conflicts too, I should have added, since for decades it has been declared that in granting emancipation to the Jews the country would risk seeing the political power and the vast lands in Moldavia pass into their hands. Now without discussing such arguments, this eventuality was no more possible after the constitutional revisions, since under the new electoral and agrarian régime the insignificant Jewish minority would never be able to dominate the Moldavian electoral constituency or monopolize the lands of the Boyards. As soon as the announced reforms had been accomplished the emancipation should, then, have been realized. But Bratianu did not come to this conclusion. He made the solution depend on a new condition, assimilation, a vague and arbitrary term; and he made it clear that some naturalized Jews participated in all Roumanian life and no longer distinguish themselves from other natives. But, then, why should the other Jews, not naturalized, be less worthy of establishing themselves in the nation? The naturalized had sprung from the same mass, they were not the oldest in the country; why, then, maintain that some could be assimilated and others were refractory? "Naturalization" itself, breaking down the artificial barriers between the different classes in the same state, brought about intimate fusion, completing their assimilation. The Jews of Italy, for example, are so charged with its atmosphere that they feel proud of the Latin character of their country. And it has fallen out that wherever the Jews have been permitted to enjoy all civil rights they are ardent and intense patriots.[4] On the other hand, it is evident that if a people wishes to assimilate itself to the culture of another it agrees to attend the national schools and to serve in the national army. These are signs indicative of the desire for assimilation. And the Roumanian Jews have never refused to serve in the army, and have always protested against their exclusion from the schools. One could even say that, thanks to the schools founded and maintained by them through private contributions, the new Jewish generation was completely Roumanianized.

So, far from persuading me, Bratianu's letter convinced me even more (if possible) that the Jewish question was the cause of an organic weakness in Roumania, that it diminished her moral and material credit in the world. Roumania had great economic and national interests for which the sympathy and concord of the civilized world were necessary to her. Why then expose herself to the reproach of religious persecution? Was it to her interest to have against her, active and organized, the conscience of civilized humanity, which in our day weighs so decisively in the fate of peoples, great or small? It was no longer a case of pointing to non-assimilation, because the Jews had shown themselves assimilable; they should not have pointed out any longer the economic and political conflicts, after the realization of the electoral and agrarian reform!

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[4] See the speech of Macaulay, already referred to (of which I reproduce an extract in Appendix XVI), "Jewish Disabilities," delivered in the House of Commons on April 17, 1833.

And I advised Bratianu to associate his name with this great work, in order to continue the noble tradition of Latin justice which had made Rome the mistress of the world. I did not intend to start a war with an enemy, but complete an effort to persuade a friend. What I desired was the conquest of hearts!

And in these terms I addressed my reply to Bratianu, which I reproduce *in toto:*

> MR. PRESIDENT AND DEAR FRIEND:
>
> My long silence is due to the internal conflict which your letter has awakened in my mind.
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> You have placed the defender of religious liberty in opposition to the Latin, full of admiration and friendship for Roumania. And I do not hesitate to confess to you that the conflict has not ceased, and that it is only given to you and your country to make it disappear by one of those decisions which would make a landmark in our era, so full of extraordinary events, and would give your nation the brilliancy of true greatness.
>
> I will not, I must not, injure your country, in which there is the breath of my country's soul. But I desire to save it from an evil which afflicts it, and contribute to ennoble it by a great act of reparation and justice.
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> I know, I feel, that the day on which you will proclaim before the civilized world the complete emancipation of the Jews, who then will become Roumanian by law as they are already in their hearts, your country will add to its recent political glory a ray of that true moral grandeur which alone can give to nations a luminous place in the ideal geography of the nations.
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> In spite of her mistakes France is still keeping her indisputable authority by reason of the immortal principles of '89, and history shows that the complaints of the oppressed are indefeasible and that final victory belongs to them.
>
> Now, my dear sir, I do not believe you to be an ambitious man, but a man who legitimately aspires to lasting glory, to that glory which made immortal the names of Cavour and Gladstone, not to go back to ancient times.
>
> When in 1848 our great minister Cavour took up the defense of the Jews and Piedmontese Protestants, demanding the broadening

and amending of Article 1 of our constitution, and when, aided by other men of superior merit, he won the victory, as I have shown in my opening lecture at the University (which I am sending to you), he gave the Italians all the guarantees for the future emancipation of their great country, because he began by the emancipation of their souls from religious prejudice, always the most hateful and the most difficult to uproot. And Gladstone reached the same height when in 1869 he emancipated the Catholics of Ireland, despite the league of Protestants who represented in England the narrow-mindedness of official churches.

It is given to you, my dear Mr. Bratianu, to surpass all your predecessors by causing the emancipation of the Jews to be an accomplished fact, and spare yourself the sad necessity of repeating the atrocious vulgarities by which it has been sought to justify the most cruel persecutions through the centuries, a justification which is resumed in these words without sense: "It is a matter of race and not of religion." History has proven that the persecuted isolate themselves, but, once permitted, they fuse with the nation, and rejoice in showing their love for the country which had failed to recognize them until then. I am proud of being able to say that to-day the best citizens of France, of Italy, of Great Britain, of the United States, of Switzerland, etc., are Jews who, annihilating the accusation of race solidarity, are happy in identifying themselves with the country that has welcomed them.

Now permit me to make some remarks of a political nature.

Do you wish, you, the eminent leader of the liberal party, to assume the responsibility before your country and before the civilized world, before history, of having stifled the admirable manifestation of justice of the Roumanian soul, during the latest Balkan campaign, in favor of the Jews, in the presence of the splendid outburst of their patriotism?

The preceding cabinet, under the influence of that popular enthusiasm, has permitted some concession to be held out that you cannot for the honor of the liberal party and of Roumania either disregard or diminish. Could we be asked to be silent, in the case of refusal?

We, the defenders of religious liberty, might be patient for some time, by reason of the confidence we have in your liberalism; but if this confidence were to be shaken, it would be our duty to defend the oppressed and the disinherited, because the Jews are in Roumania foreigners without protection. Even one of your distinguished statesmen, M. Take Jonescu, was obliged to acknowledge in a press controversy with me that if the Jewish problem in Roumania is not a matter of international law, it is a matter of international sentiment.

Well, M. Clemenceau, Signor Visconti-Venosta, Mr. Roosevelt, myself and many others, we should be proud to represent this international movement. But I hope that you will not put to the test the statesmen and scholars who beseech you through me to be allowed to reconcile their friendly spirit toward Roumania with their devotion to the cause of religious liberty.

We, the true descendants of Rome, we Italians and Roumanians, must follow the great teachings of Rome, and we must not forget that Rome always respected the gods of the conquered natives, and succeeded in gaining the moral unity of the Empire more through this respect than through the majesty of arms and laws.

The greatest sorrow that I could receive through you, my dear Minister, would be your silence or a repetition of your negative answer, for I, who stand ready to give my life for religious liberty as for the defense of my country, would be extremely grieved to have the appearance of fighting Roumanian while defending the cause of religious liberty. I say the appearance, because I am strongly convinced that I am giving Roumania another proof of my love, persuading her that it is a vital interest for her to show her respect for religious liberty by the emancipation of Roumanian Jews.

I am, etc.

LUIGI LUZZATTI

Following the receipt of this letter Bratianu betook himself to our minister at Bucharest to communicate its contents to him, showing that he had not been able to interpret my thought precisely. Then by arrangement with the Premier and the Minister of Foreign Affairs [5] I sent to the Italian minister at Bucharest my revisions, so that they might serve him as material for expounding my thought, untransfigured by passions of religion or of race. I begged him to tell Bratianu that I had for years defended religious freedom, and that for a long time I had carried on a vigorous campaign in the *Corriere della Sera* in defense of the Roumanian Jews. That in the preceding ministry the Minister of the Interior, Take Jonescu, had carried on a controversy with me. That I had determined to form an international committee, on which there would be no Jews (except myself, who am outside every church and become a Jew only when I am reproved for being so). That Clemenceau having written in his journal *L'Homme libre* an article on behalf of the Roumanian Jews, agreeing with my ideas, I had asked that he be one of the committee and he had promptly and cordially agreed. The preceding ministry had given out that it would grant full and entire Roumanian nationality to all the

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[5] The Premier's letter:

ROME, April 22, 1914

DEAR FRIEND:

Yesterday I saw San Giuliano, to whom I referred your charges, which will serve as a basis for a despatch to our minister at Bucharest. Neither San Giuliano nor I has any objection to your writing directly, in your own name, to Bratianu, the better to clarify your meaning.

Friendly regards,

A. SALANDRA

Jews enlisted in the army in the last Balkan conflict, and although that was only a partial solution I had suspended my polemics, hoping for more radical reforms. But then, the new Bratianu ministry having come into power, the news was spread that it did not stand by the proposals announced by the preceding ministry. I was then urged from many sides, from England, and especially from the United States, to delay no longer, and to publish an international manifesto against the policy of the Roumanian government on the question of its treatment of the Jews. And in my mind, torn by the conflict between my love for Roumania and my devotion to the cause of religious freedom, the second sentiment conquered. That Bratianu had replied to my first letter with courtesy in form but harshness in substance, and that to my second letter, full of affection, in which I asked him at least to naturalize the Jews enlisted in the army, as they had solemnly promised, he had not replied. I was sustained in this action, moreover, by the Italian government; besides, I had the full power to act thus as a free publicist; and finally, if I had withdrawn from the controversy and from this action the Americans of the United States, the English, etc., with men of the first rank and of great authority, would have opened a most vigorous campaign. I restrained them, I was a moderator and not an instigator, but I could not be asked to abandon the cause of religious freedom which, after Italy, is the faith of my scientific and political life.

At the same time Clemenceau, who was a convinced upholder of the struggle, wrote to Marghiloman the following most noble letter:

THE SENATE

PARIS, April 28, 1914

MY DEAR M. MARGHILOMAN:

In the course of a conversation that we had last summer you stated to me that at least part of the Jewish problem in Roumania was soon to be solved. You even told me that all the Jews who had served in the army during the war would be naturalized *en masse*. It does not seem, however, that since then the Roumanian government has given a thought to this serious problem. Just now the bill for the revision of the constitution is before Parliament, but it contains nothing about the Jewish question.

I was always a sincere friend of your country, and I think I have proved it under various circumstances. How could I be suspected of a hostile thought when I expressed the necessity for Roumania to do away with conflicts of a moral order which remove so many sympathies from her? You will, furthermore, recognize that the question of justice and right of conscience which is before us goes beyond your frontiers, and makes an appeal to the deep feelings of all mankind.

It is to Roumania's interest to give the Jews a legal status. Their commercial aptitude and their activities are a powerful factor of prosperity for your country. It cannot in any manner be denied that their present situation is absolutely incompatible with the principles which govern modern states. Here you have men born on your soil, subject to military service, a thing which can be imposed only upon citizens enjoying all citizens' rights; and still the law proclaims them foreigners. The contradiction or rather the injustice of this treatment is made evident by the fact that they are neither subjects of nor protected by any foreign state. In international law they are monstrosities.

It would be absurd that a country which has acquired in the world the position of Roumania could take umbrage at fifty to sixty thousand Jews who might acquire full citizenship. I can only see there a true "phobia," inexplicable to impartial spirits.

By granting citizenship to the Jews, that is to say to all those who cannot claim any foreign citizenship, Roumania would cancel the last remains of a legislation which is the last legacy from a past of oppression, which has no *raison d'etre* for a nation definitely possessed of ideas of liberty and of progress. I affirm that your country would thereby definitely acquire for itself the sympathies of all civilized nations.

Nobody is unaware of the fact that the foreign governments have been repeatedly solicited to call Roumania's attention to the execution of the Treaty of Berlin, as concerns the status of her citizens adhering to the Jewish religion. Is not this a sufficient proof of the interest of western Europe in a prompt reparation—too long delayed—of an injustice which, permit me to say it, is particularly shocking for the children of the French revolution?

Although your party is not now in power I should like to be able to count upon you, my dear M. Marghiloman, to call without delay the attention of your fellow citizens to the necessity of settling at once, in accordance with the law of nations, a question, the indefinite postponement of which is a burning wound for European consciences.

I am, etc.

G. CLEMENCEAU

And meanwhile Bratianu answered me:

PRESIDENCY OF COUNCIL OF MINISTERS
BUCHAREST, April 29, 1914

MR. PRESIDENT AND DEAR FRIEND:

The conflict which my letter has created in your mind has not lasted long. Permit me to hope that the friendship of an eminent Italian for Roumania will not be definitely discarded, and that in the intimate combat of your soul, your conscience, better enlightened, will find itself again.

As I have written to you, the present position of the Jews in

Roumania is only the result of the recent invasion of a country in full political and economic transformation by a too numerous foreign element, and this before the normal evolution of the native element was consolidated and definitely assured.

The hour will come for the solution of the problem, but in this moment for all the Roumanians responsible for the future of their country as well as for all those who know the real conditions and who have a sincere sympathy for Roumania, that hour has not yet come.

In your letter you were kind enough to show me the attraction, so often misleading, of glory, by evoking the great figures of Cavour and Gladstone.

Too much cognizant of the modest rôle assigned to me, permit me to place duty before everything else. Yes, my dear Mr. President, the duty is imposed upon me in this moment to assure to my country an organization on which her future may depend. I have reflected a good deal and I have ascertained that it was impossible for me to join the Jewish question with the present constitutional reform.

When the moment comes Roumania will by herself—in the measure dictated by the development of the state and her ethnical character—do what others could not impose on her without seriously compromising the process of assimilation of the Jews in Roumania.

Imbued with this conviction, I must insist on begging you to give up an initiative which is not friendly for Roumania.

I am, etc.

ION. BRATIANU

The letter left no room for hope; it was clear that Bratianu would do nothing in the near future, and my heart was sad. I seemed to feel on my shoulders all the weight of that misfortune which would be prolonged for no one knew how many years more. One ray of consolation reached me in a letter from Lord Balfour, so loftily human in the sobriety of its language:

CARLTON GARDENS, PALL MALL, S. W., May 15, 1914

DEAR SIGNOR LUZZATTI:

I have read with profound interest the Memorial signed by you and the other statesmen who have held the office of Prime Minister in their respective countries; and I wish to join them in expressing the serious hope that the revised Roumanian constitution will remove the restrictions by which the Roumanian Jews now suffer.

It is with hesitation that I dare to express an opinion concerning the internal affairs of a country which is not mine. But two considerations prompt me to do so.

The first is that the political and civil rights of all the strata of the Roumanian population interest Europe as well, because they were laid down in treaties which are still in force, and to which the great powers gave their consent.

The second is that, in common with a great part of my fellow countrymen, I have great hopes of the part which Roumania is destined to play in the development of the civilization of eastern Europe. And I asked myself how these hopes can be realized if, in a question so important as that of granting civil rights, Roumania resolutely refuses to accept the principles which govern the policy of all the rest of the western world. A Roumanian Jew must pay taxes to a government which does not consider him a citizen, must fight for a nation to which he is not permitted to belong; he is by law an alien in his native land and while he bears all the burdens of citizenship he cannot enjoy its most common privileges.

That such a state of things should still exist, and exist in the face of European treaties, is cause for profound regret to all the friends of Roumania, a regret rendered more acute by every progress in her wealth, her culture, and her influence. And it is to be hoped that in approaching the revision of her constitution an opportunity may be sought and found for healing this crying wound.

Believe me, with profound respect,

Yours truly,

A. M. JAMES BALFOUR [6]

In the meantime the great European conflagration broke out, Roumania, like the other nations, had then to forget internal dissension in order to consecrate herself entirely to the defense of the threatened territory. But our campaign for those wretched victims of oppression did not entirely die out; it even entered into the ideals which justified that epic struggle. The action of the committee was of necessity interrupted; moreover, a most high reason counseled me to silence, which, on this point, I still maintain, because of a feeling of gratitude toward the one who accomplished the partial reparation. However, the protest was not always silent against the iniquitous injustice inflicted on the Jews of the east of Europe, in the minds that were thirsty for justice and freedom. And in those years were written the two articles, dedicated to Russia and Poland, which I reproduce in the following chapter, in defense of these perpetual martyrs.

Then, in July, 1916, I wrote thus for the United States:

THE JEWISH QUESTION

I am asked to send a message to the Jews of the United States; I am asked to repeat my ideas about the Jewish question, eternal like intolerance, sad like the persecutions, because the Jews never resigned themselves to being extinguished, and intolerance never decided to end the persecutions. They are always accused of the same crimes, the same as those of which the Christians were accused by the pagans, beginning with the slaughter of children and the drinking of their blood and ending with dishonest practices in business. But by the example of free countries, like the United States, Italy especially, Great Britain, and France, we find that whenever the Jews are freed from restrictions and made equal to the other citizens they defend the fatherland with their blood and with their wealth, they dedicate themselves to all the liberal professions, and shine in every branch of human knowledge. The persecuting countries always accuse the Jews of not being that which they cannot be, because of the restrictions imposed on them. In countries like the United States and Italy, where they may achieve the highest posts in the government of the state (the writer of these lines has been many times a minister, and for a year even Premier, without any opponent ever reproaching him with his origin), the Jews have all the virtues and defects of the non-Jewish citizens, with the addition that, having been lately emancipated and fearing the ancient persecutions, they try to conduct themselves especially well. These emancipated Jews of the United States, of Italy, of Great Britain, and of France and other countries which honor religious freedom, have the duty, bequeathed to them by the sufferings of their fathers, of defending their persecuted, oppressed brothers! The writer of this brief message left the church of his forebears many years ago, a God being enough for him, without concrete forms; but he has dedicated his public life to the defense of religious freedom, and he becomes a Jew again whenever he is reproached for being so, just as he becomes a Catholic, a Protestant, a Buddhist, when those faiths are persecuted.

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[6] Balfour always remained attached, afterwards too, to this great principle of the emancipation of the oppressed and of religious freedom; better than any other Englishman he represents the continuation of the spirit of Gladstone.

If from the present horrible war right and justice emerge triumphant against violence, the British, the French, and the Italians should impose religious freedom and equality on the states which do not practice it. I have tried to do so in Roumania, still without success, but I trust that the Jews, the Catholics, the Protestants, the deists, of the United States will be more fortunate, and taking the initiative in this blessed defense will win the fight! The Jews, the Armenians, the Catholics of Belgium with their new martyrs, have offered documents of blood to defend the most sacred of all liberties. And a committee of men chosen from all the world should be formed in Paris and be quick to uphold, when the time comes, the liberation of those unfortunates.

I close with this hope, extolling the Jews of the United States, who live freely in the freest country in the world!

THE NATIONAL JEWISH HOME IN PALESTINE

The national home having finally been proclaimed by act of Great Britain, with the Balfour Declaration, the sorrowing bands left eastern Europe by thousands to seek in the ancient fatherland freedom of worship of God and in the arid land an unopposed labor. To these Jews of Palestine, who had asked me for it, I sent, in November, 1920, the following message. It contains a special salutation to the coöperative farmers, who to-day are drawing such wonderful returns from the land:

Freed from the most rigorous persecutions, settled once more on the sacred land of the ancient fathers, it is necessary to respect profoundly the creed of other peoples, to live with them in regardful benevolence, not to covet a superiority which may have a political character. History is full of sad examples which show that the persecuted of yesterday, moved by an atavistic desire for vengeance, become persecutors in their turn. It would be a sin against the God of mercy and of pity, which would be expiated on the land; the Christian and Mohammedan peoples, divided by faith and customs, would join to the harm of the Jews not only in Palestine but in the whole world.

The persecuted of yesterday should forget, forgiving; and there is no true forgiveness without forgetfulness inspired by good will, if they wish to be worthy to enjoy the freedom of their religion and of their ancient rural home.

In Palestine the Jews should prefer that of the soil to all other labors, renewing the Biblical miracles of the bunches of grapes wonderful for weight and flavor. And the farmers should bind themselves always more and more in coöperative associations, should spur them on by popular credit, and the wretched, bound in these fasces of a mutuality thoughtful of the future, will become less wretched, they will know comfort, the daughter of stainless toil.

The writer of these heartfelt words, having reached the age of eighty, is ready to help the associations of Palestine as he has since his youth those of Italy, his lovable and beloved country. But the fundamental point of emancipation is in praying to one's own God in humility, and in considering other religions as different notes of pure souls which agree in heavenly harmony.

The Jews of Palestine are urged to save themselves from the perils of their race: too great meekness in wretchedness, pride in the day of rising fortunes. Neither dominating nor dominated; this ought to be their program, political, economic, and religious.

The Jewish world has its eyes turned toward the colony of Palestine, and the persecuted Jews look upon it as the land of liberation; the happy, who love and serve their adopted country with feverish loyalty, care for and watch over their coreligionists in Jerusalem. Alas, if they should excite by pride and arrogance the just wrath of the Christians and Mohammedans!

Let us not forget that we were the protomartyrs of civilization from the day of dispersion; to save ourselves it is necessary to be meek and humble of heart in the day of our redemption.

Oh, if there shone in Palestine the sun of that radiant day in which Jews, Christians, Mohammedans celebrated their cults, united in common respect, and made their rivalry consist in which should offer the greatest benefits to the unhappy, mankind would know true peace, which cannot emerge from wars, but from divine love![7]

To the B'nai B'rith

And my salutation to the society of the B'nai B'rith[8] is of January 22, 1922.

The society of the B'nai B'rith has the most high aim of a serene reconciliation. It tends to revive in the Jews the consciousness of their dignity, and works to the end that mutual benevolence should not diminish among the peoples. They have often served *mundo corde* the fatherlands of their adoption; great is the contribution they have made, and that they will make, to human progress. But oppression, extinguished almost everywhere, still exists in eastern Europe, where equality in the laws and in the spirit is not established even after the war of liberation which bore written on its banners all the redemptions. And yet the oppression or the freedom of Israel marks the level of civilization of a country, and every people has the Jews which it deserves. There are, it is true, erring and even unworthy ones, but let it not be forgotten that many were forced to do evil because they were prevented from doing good. When honest trades are prohibited they must become, in order to live, petty usurers. If you exclude them from all the high, all the manly offices of public life, you force them to take paths less direct. A persecutor such as czarism creates prepares another form of persecution, that of Bela Kun, that of Lenin and Trotsky!

Let the peoples not delay in reparation. If there were wrongs on the part of Israel it is necessary to return to the origins and look at them through all the tears that were shed; they would turn the glance of the most implacable enemy to a profound pity and a sincere admiration. May there be reciprocal forgetfulness and forgiveness, and if long grief is fitting to long recollections, let the Jewish people remember only to render more secure faith in its unfailing destiny. Let there stand as a symbol of that forgetfulness the path that the Jews frequented beside the Arch of Titus in order not to pass beneath the vault that recalled the Temple violated, Zion lost, to-day overgrown with brush and weeds. In the judgment of history (which has the sole fault of being late, and of not preventing the great sorrows) persecutions turn out to the advantage only of the persecuted. One must love those who believe themselves in error, hope to lead them back to the cult of the true God by goodness, by persuasion, by sweetness. If a faith without the virtue of apostleship dies out, a faith which spurs on apostleship to violence profanes itself, exhausts itself. And men, all created in the image of God, can and ought to be, in their different faiths, the notes of a wondrous harp, which agree in heavenly harmony.

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[7] The spirit of the small-farmers or workmen, tired of the struggle or of the political and religious abuses of which they have been victims, is filled with the idea of returning to Palestine simply to cultivate the soil peacefully. Even in the Far East the representative of the Chinese Jewish community sent this salutation to Tagore, on the occasion of his journey in that republic, containing the program of the Palestinian colony:

"It is not unusual to see our pioneers in Palestine, who by day break stones for the roads, dry up swamps, build bridges or houses, retire in the evening after sunset and read our poet Bialik or the songs of Tagore. Gitanjali has already been translated into Hebrew by David Frischmann. . . . Our nationalism does not tend to erect barriers between us and other countries. We wish only to throw a bridge across the abyss created by an abnormal life. . . ."

[8] This forms the introduction to a lecture by the eminent and learned Dr. Yakir Behar of Constantinople.

I have not published here all the documents, nor have I described all my work in the defense of the persecuted Jews, in order not to digress too much. But my protests have never ceased. Even when my voice was not heard I argued the good cause in conversation with Roumanian statesmen who, in journeying through Italy, came to see me, or with influential persons. And I exhorted them all. Therefore it is not easy for me to express my spiritual joy when, in April, 1923, I received from Bucharest the following letter:

> DEAR MASTER AND FRIEND:
>
> I am performing a duty to you, noble champion of religious freedom, and eloquent defender of the Jews of Roumania, in communicating to you the news that those whom you called "the last slaves of Europe" are finally free! And (irony of fate!), the very government of Bratianu, whose party has created and fed on the "Jewish question" in Roumania for half a century, has done the job!
>
> The new constitution, Article 133, contains the formula, agreed to among the government, myself and my colleagues, which ratifies the decrees of 1919, granting the rights of citizens to the Jews born in the country and who do not enjoy other, alien, protection, and grants a new delay of three months to those who have not made their declarations. In this way nearly all of the Jews of the old kingdom are emancipated. As far as the Jews of the annexed provinces are concerned, a declaration of the government (accepted by me and formulated first), read to Parliament, declares that they remain under the rule of the international treaties.
>
> The matter has not gone without difficulty! I had first asked that the articles of the Peace Conference of Paris for the protection of minorities be inserted in their entirety into the new constitution. But the government opposed this, and so we arrived at a compromise, reserving to ourselves the right of recourse to the treaty in case of difficulty.
>
> We can therefore consider the "question" closed and I am proud and happy to have been able to collaborate, as the representative of the Jews in the Roumanian Parliament, in this great historic act.
>
> And in the name of the Jews of Roumania I send you, dear friend, the expression of the liveliest gratitude for your noble contribution to the solution of this grievous question.
>
> There remains the other problem: anti-Semitism. Two thousand

> years old, it will not die yet! And in Roumania the anti-Semitic agitation is at its old game. For this need I have addressed to Parliament two great requirements against the turbid follies, and the government is now taking severe measures. But the anti-Semitic wave has reached other countries too, for evil is more contagious than good.
>
> With my cordial and most grateful salutations, yours, etc.
>
> ADOLPHE STERN [9]

After 50 years of humiliation, of tears, and of blood, the Roumanian Jew was emancipated! The joy of a superficial observer would have been without a cloud, but to me the illusion could not be complete. I was sunk too far in the depths of that wound not to know that religious freedom had entered the laws of Roumania but had not become the essence of her spirit. The government had done in great part (even if tardily) its duty; but when would there disappear from the minds of the people those dark prejudices which still moved the "National Christian Alliance," the students, and which lodged in the minds of the peaceful citizens and the intellectuals?

Bratianu told me in 1914 that emancipation ought to follow (besides the electoral and agrarian reform) assimilation! And had this been accomplished, perhaps, in a decade? Or did he rise, instead, to better reasoning, and comprehend that assimilation could not take place in isolation, but rather by a loyal concession of rights and by reciprocal trust?

But a great step has been taken, and I trust in the gradual disarming of the Roumanian spirit, as I trust in a future of love among the human races!

NOTE

Thus I wrote in the spring of 1925; now I have reëxamined the situation and the facts show that my fears were not vain. The historical hatred still conquers the cold protection of the governments. The anti-Semitic wave mounts, always mounts.

Notwithstanding the liberating constitution, by means of which the Jews of the old kingdom were declared citizens, there has broken forth in the country a violent agitation which had at the beginning the student body as agent and the *numerous clausus* as pretext. The *numerus clausus* (masked under the form of an entrance examination, by means of which the Jewish candidates are almost always rejected) rages mysteriously in certain universities and the students conduct a lively campaign to have it officially applied. The disorders which arise from it are sometimes most grave. The recent sad case in Jassy is known, where the Prefect of Police, Manciu, for having wanted to keep order in the streets and prevent demonstrations against the Jews, was killed by the student Corneliu Codreanu (son of the anti-Semitic Professor Zelea Codreanu). This is the sorrowful crown of the agitations in the university centers during the last years. Because of legal suspicions of the surroundings the trial which followed was moved to Focshani and then to Turnu-Severin. No lawyer undertook the defense of the state's case except C. G. Costa-Foru, who was then insulted and beaten by the students at the station of Cluj. The lawyers for the defense, on the other hand, were allowed to go on with their apology for the crime; they proclaimed Codreanu a martyr, the future hope of anti-Semitism, a true national hero, the champion of his race who had dared to save the future of his country. Focshani counts among its inhabitants a group of six hundred Jewish families. Against these the wrath of the agitated spirits was displayed; their houses, their schools, were invaded, their shops were destroyed, the synagogue was outraged. The damage amounted to some millions of *lei.* Despite the demands of the Jewish members of the House, the government had not taken any preventive precautions, although it had been warned. And young Codreanu was acquitted, carried in triumph, covered with flowers, the city decorated with flags.

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[9] Eminent and learned Jewish deputy to the Roumanian Parliament.

Moreover there is a law which reserves to the state the foundation of normal schools, and denies to the private schools the right to issue diplomas. The pupils of these schools must take their examinations before a government commission and pay a special tax. This constitutes an illegal and unjust impost, since the private schools are necessary, the state not providing enough for the education of all the children of the minorities, which, after having contributed with their taxes to the maintenance of the public schools, then have to support, at their own expense, the private.

Still alive is the controversy over the dissection of cadavers in the faculties of medicine, where the Roumanian students do not permit their Jewish fellow students to use those belonging to Christians for anatomical studies. And the Jewish religion prescribes the burial of corpses. Recently the Senate tried to reach an agreement by which those dead in the hospitals or on the public streets and not claimed within three days, no matter what nationality or religion they belonged to, should be placed at the disposition of the faculty of medicine. But it was rejected and, instead, an amendment was approved which obliged the Jewish hospitals to send a certain number of cadavers to the faculties every year, otherwise the Jewish students would not be authorized to pursue their experimental studies.

In the face of such a breath of hatred the following events which I read of lately, but which I have not yet been able to verify, shine with more vivid light; the Jewish banker Jacob Elias left his entire fortune (about a billion *lei*) to the Roumanian Academy. Another Jew of Bucharest, a certain Gross, has dedicated his patrimony (some thirty million *lei*) to create a home for students, providing that half the beneficiaries must be Christians. And in Hungary a Jewish couple named Hassab founded a polyclinic beside the Jewish hospital, where any patient will be admitted without distinction of religious faith.

But to turn to the omissions of emancipation, contrary to the formal text of the Versailles Treaty (which the Roumanian Parliament ratified) the Cabinet of Bucharest, yielding to the anti-Semitic agitators, has inserted into the organic law on nationality a paragraph which sensibly weakens its benefits. According to this paragraph citizenship is no longer acknowledged to the domiciled, but only to those who can show themselves to have had in 1918 "communal nativity." Now because of the war, the invasion and the consequent flight, or because of the lack of registration in the administrative records (then not required), many are not supplied with this proof and will therefore be excluded from citizenship, after having already figured in the election lists. At the same time there are signs of sensible improvement in certain regions of Roumania, and last year the president of the Zionist Executive Committee, during a lecture tour of the principal Roumanian cities of large Jewish population, had to praise the tranquillity which permitted him to organize the meetings freely, expressing to the government his acknowledgment of it.

So far as my information goes, all these demonstrations nearly always have their origin in the "National Christian Alliance," which by its words and deeds shows itself in favor of the extermination of the Jews. It is presided over by the ex-Professor of the University of Jassy, A. C. Cuza, who from his academic chair and now in private life conducts a deadly anti-Semitic campaign, and openly declares that the movement should be conducted on an international basis. In this propaganda not only do the "old Roumanians" participate but also those of the newly annexed provinces. And in Chij, in that Transylvania already oppressed by the Magyars, the Roumanian students agitate in a special manner against their Jewish fellow students. So do those of Cernauti in Bucowina. And, horrible to relate, the Hungarian and Saxon students, Catholic and Protestant, also participate. It is therefore a campaign purely anti-Semitic. But it is necessary to acknowledge that the great majority of the professors disapprove of it (for some time the universities were closed), the press condemns it, and the mass of the people take no part.

Is it a case, perhaps, of an "anarchic wave," as Jorga called it in an interpellation in the House? The government finds this agitation inopportune and prejudicial to the country and to the liberal party given up to the formidable attacks of the opposition. But the announced "energetic measures" have been weak, hesitant, undirected. Taken energetically at the beginning they would have nipped the movement in the bud; to-day, instead, it seems difficult to eliminate it, also for economic reasons which, in part, help to keep it alive. But if there comes, in Roumanian society, a relative leveling, if the present enriched middle class (numerous among the Jews), because of the crisis which threatens in Roumania as everywhere, reënter the category of the lower middle class, and if the government is willing to be truly stern and implacable toward the disturbers of the peace (who hitherto have always been acquitted and even glorified), the disarming of the agitating spirits will be achieved. Recently the premier has again "recognized the danger of it and invoked the aid of all the parties" to bring to their senses a fraction of foolish or violent ones who impeded the reconstruction of the country and its peaceful life. And we wait with anxiety that radiant day!

THE JEWS IN POLAND

Anti-Semitism, lessened in Roumania through recent laws, still casts there, from time to time, sinister gleams. "It is extinguished," say the Roumanians; "it will be extinguished," adds my soul, trusting and confiding in the Latin spirit of our Dacian brothers.

But the tempests of misfortunes, of passions, of events, which was unleashed by the war and breathes in this tortured peace, scattered the poisonous seeds thinly everywhere, so that they flourish in the earth of many countries, and to-day the evil plant grows even in a land of melancholy charm, compact of infinity and mystery, and of all the misfortunes of her children, in the nation which is the outpost on the boundaries of two civilizations, inclining to the Orient but with vague gaze luminously bent upon the West. It is Poland rearisen from the ashes (a new phœnix), dear to whoever has felt the cult of freedom or suffered for it, which has in its turn been tormented by the century-old problem, dripping tears and blood.

This nation has a notable past in tolerance. The first groups of the wandering race reached the banks of the Vistula and the Niemur when the peoples who dwelt there were mingled in the great and complex Slavic family. Then the influx continued under the reign of Boleslav the Pious [1] and particularly in the times of Casimir the Great (1309-1370), because the country needed capital and enterprise, while the most progressive countries of the West were forcibly getting rid of their superfluous Jews. There they obtained favorable conditions, and in the agricultural and feudal districts where the middle class was lacking, in the face of a nobility of great landowners and peasant serfs, they were the founders of commerce and of the then non-existing cities, they took the place of the lacking middle class, they served as intermediary between the two societies, to the advantage of the feudal aristocracy. They remained isolated, however, in their middle-class function, without being able to assimilate themselves to either the one caste or the other, because of difference in religion, in temperament, in language; but they felt and suffered like true Poles in all the happy and dark hours of the land.

Even in the movement of redemption of 1794 a regiment of Jewish volunteers fought under Kosciuszko, the mystic victim of defeat, whose glory has cast into shadow that of the conquerors. In the *Pan Tadeusz*, the Polish national epic, the great poet Mickiewicz made the Jewish innkeeper Jankiel one of the principal and most sympathetic characters and patriots in the work.[2] In 1863, during the insurrection before the last, the brotherhood of the Christians and the Jews was so complete that the latter entered the churches with their rabbis, and the Christians raised their hymns in the synagogues. It was a case of fusion of hearts in the ideal of the fatherland, but at the same time the assimilation of their intellects and customs was continuing steadily and the Polish nationalist sentiment was so strong among the Jewish youth as to separate them from the Russian Jewish element.

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[1] Boleslav had already issued decrees favorable to the Jews. This liberalism was transmitted also to his successors, among whom there shone Wladislav Jagiellonczyk.

Then, about thirty years ago, the Zionist and nationalist current, born of Russian anti-Semitism and persecutions, reached Poland, and contributed to halting the work that had been initiated. It cannot be claimed that there had formerly existed between the Poles and the Jews a perfectly idyllic state; perhaps their relations were not always peaceful; but they constituted on the whole a tolerable coexistence. It may be added that with the passage of time and the cessation of wars and skirmishes the small Polish nobility had, of necessity, to devote itself to lucrative professions. Then came the first open break; the nobility found the Jews established everywhere, and with the rivalry of interests they shut out the memory of past services. Jewish commerce became, from the nature of the situation, the rival of the nascent Christian coöperatives, and then, in its turn, was attacked and weakened by the boycott of the Poles, whose fortunes were on the increase and who no longer bought from the ancient purveyors. And let us not forget the most grave guilt of the Russians: stirring up Jewish hatred of Polish fellowship, the ejection of their coreligionists from Russia and the sending of them (perhaps with ulterior motives) into Poland, where their numbers rose rapidly in this manner. The newcomers bore a different spirit, they were perhaps an aid to the government in the Muscovite propaganda in Poland, and they influenced the masses of ancient residents. The Poles felt themselves morally and economically menaced, they wished to defend their rights, and there was initiated that ill-omened "official" anti-Semitism, an anti-Semitism which in milder and less continuous form, had perhaps been always latent.

Their attitude toward one another finally became hostile and fatal in 1912 when the city of Warsaw (which out of a population of about eight hundred thousand, had three hundred thousand Jews, among whom a majority were voters) had to elect a deputy to the Duma. The Jews could have sent one of their faith to the Russian Parliament, but their feeling for their fatherland made them renounce their right, preferring that the capital of Poland be represented by one who was a Pole by origin as well as by allegiance. The only thing they asked the electoral committee was that the candidate should not be an anti-Semite. The committee, on the contrary, wished to support a certain Kucharzewski, who openly declared that he wished to enter the Duma to bring about the extermination of the Jews of Poland. The Jews were thus forced to select another, not hostile Pole, and only Jagello, a Social-Democrat, whose advanced ideas they did not share, offered himself to be their candidate. Thus, as Lord Beaconsfield justly observed, the Jewish race, because of its conservative spirit, was often forced by a mistaken policy to make common cause with the elements of the extreme left.

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[2] Mickiewicz, especially under the influence of Tomianski, had generous impulses toward the "older brother," Israel. At the synagogue of Paris, on the anniversary of the destruction of Jerusalem, he spoke in the name of the synagogues of his country, from which he had heard the tortured cry: "One can help Israel only by taking up its cross, and helping it to destroy the rock which oppresses its spirit. Not without a divine reason did the Jews live for centuries among the Poles; the Jews who in all times have taught the world without armies and legions how to resist foreign domination; the Jews who form the most spiritual people on earth. . . ." (M. Bersano Begey, *Vita e pensiero di A. Tomianski, Libreria Editrice Milanese*, Milan, 1918.)

Jagello was elected. From that day begins the struggle which knows no truce. The coöperative movement which constituted competition with the small Jewish commerce, was transformed into a systematic boycott, blood was shed, and there came the woeful pogroms. Superior men, like the son of the great Mickiewicz, worthy of his father, pleaded with their compatriots to return to peace. All was in vain.

Meanwhile the World War broke out, and the tide of hate continued to rise. The Polish newspapers laid before the Russian government an accusation, charging the Jews with hiding gold and silver and sending it into Germany, of smuggling for the enemy armies, of being spies, of poisoning wells, and the shootings based on these unproved accusations were numberless. And yet three hundred thousand Polish Jewish soldiers, many of them volunteers, served in the Muscovite army! Add to this the ignorance of the Russian peasant, a perfect instrument for this contagious religious hatred. Georg Brandes, indeed, relates that during a trip of his a great Russian economist and landholder told him of having asked some of his peasants one day if they had really taken part in a pogrom which had taken place in the neighboring parish; he did not believe it, so sweet and mild was the expression on their faces. "Of course," they replied to his great surprise. "But why?" "You know well enough!" And they explained to him: "We killed those Jews because they killed our Savior Jesus." "But that was a long time ago, and it was not they, nor did it happen in these parts." "Was it really long ago?" they exclaimed astonished, "we had thought it was last week." From the priest's explanation they had thought that the crucifixion had taken place then, and even in that place!

But if the brutality of the *mujiks* may be in some measure explained by their ignorance (and by the cupidity of certain small Jewish tradesmen), it is inconceivable in Poland, where the masses can read and write and are more progressive.

And yet not only from Russia but also from Poland (from Bechava, from Janow, from Krasnik, from Zamosc, from Jozefow) terrible news reached me. To the vexations of peace-time there was added the most inhuman treatment. Not a few of the hospitals refused categorically to receive Jewish doctors and patients. At Borisov, in the principal hospital which occupied the building of the Jewish hospital, Jews were not received; the same thing happened at Taganrog, and these two were not isolated cases. The families of the wounded soldiers could not visit them because they were forbidden to leave the "territory" within which the Russian government obliged them to dwell. Institutions of the Red Cross categorically forbade the admission of Jews.[3] The Senate of Finland decreed that Jews unprovided with special permission to live in that territory should be expelled; and the same country had twenty-five years before promulgated a law (an incredible thing!) which made them liable to expulsion if they contracted marriage. What peril could Finland fear? The emigration of exiled Jews was never turned toward those regions!

What aberrations! And how could Poland, which had suffered bitterly under Muscovite despotism and by her ferocity, ally itself with the enemy in becoming a slaughterer? This anguish, the rising wave of fearful news, prompted me to write the following article which I published on February 21, 1915, in the *Corriere della Sera:*

RELIGIOUS PERSECUTION IN RUSSIA [1]

ALL those states which represent the centers of attraction for the political reconstruction of kindred races, and fight for this great idea, have our profound respect, our affectionate sympathy. We salute them as liberators and redeemers of peoples suffering in martyrdom, we salute them as glorious avengers.

Considered from this point of view Russia, the emancipator of the Slavs, assuring to Poland the autonomy of its ancient historical state, now cut up into three parts, has our commendation.

But there are two modes of caring for, of defending, the principle of nationality; one respects the race, the religion, of the minorities scattered among the principal stock; the other method (if it can be called so) ignores them, disparages them, treats them abjectly, so as to leave the predominance with the principal group. In such wise the liberating principle is transformed into tyranny, it becomes the vicious degeneration of a thing essentially good, it profanes itself. Whoever is responsible for such degeneration does not deserve the forgiveness either of his contemporaries or of history.

These simple and obvious truths the Russian government should bear in mind, in the face of the most grave acts of religious intolerance, performed in this terrible war, against the Catholics and the Jews: the first have their strong, constant, and most authoritative defenders; the second, often and for centuries, have sought them in vain!

No one, for instance, wishes more than the writer of these heartsick notes, good fortune for the Polish people; reëstablished in a free régime, they will astonish the world with their virtues. No one has wept and shaken with patriotic indignation of greater sincerity, reading as a youth the songs of their immortal poet. But will they know how to grant equality of rights and duties to those minorities that shared in their sorrows and felt the same political oppression? If not they will be worse than the oppressors themselves, who to-day seem ready even to grant at least the asked-for freedom.

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[3] I have not heard that the Red Cross ever refused the contributions of the Jewish philanthropists.

[1] The review *La Voce dei Popoli*, which Umberto Zanotti-Bianco edited with such lofty ideals, continued to print the plaint of this, as of so many other, oppressed peoples.

A great Danish writer, Georg Brandes, has made a profound, impartial study of the stories (which would seem like legends of the darkest of the Dark Ages!) of the murders, of the outrages of maidens and youths, of the pogroms, of the massacres, in Russia, after the war had begun, attributed to the Poles; he should know at least part of the truth. Thus they repay the three hundred thousand Jewish soldiers who, forgetting the age-old outrages, are fighting for Russia, exciting the admiration of their fellow soldiers, and winning honor on the field of battle! Brandes, who wrote this denunciation filled with indignation, grief, and pity, is one of the oldest defenders of the Poles, and many decades ago when the most liberal publicists were silent on the matter he said bravely:

> One loves Poland, not as one loves Germany, France, or England, but as one loves freedom; because what else has it ever meant to love Poland but to love freedom, to have deep sympathy for misfortune, to admire the enthusiasm of the struggler? Poland is the symbol of all who have loved the loftiest ideals of humanity and have fought for them.

And this writer, lamenting to-day the brutalities wrought upon the Jews, especially in Russian Poland, does not change his words, does not withdraw his influence; but he recalls to those who are still not free that they will cease to be worthy of independence if before obtaining it they give proof of wishing to change it in their turn into an instrument of sad oppression!

To us Italians it is inconceivable that there should spring—from the cult of nationalism, which is like the religion of the family, for which one sighs and works and dies in peace; from the fountain of heroism, martyrdom, of all the saintly civic and manly virtues—the evil genius of religious persecution of the minorities!

When the Russian Poles suffered more, they were more just, more equitable!

They were more equitable, more just, at the end of the eighteenth century, when (1794) a regiment of Jewish volunteers fought gallantly with Kosciuszko, their common plight illuminated by the ray of human brotherhood.

And in 1863, at the time of the revolution (some of the bravest Italians fought for them and died), when the Russians began to fire upon the kneeling crowd in Warsaw that was singing the patriotic hymn *Z dymem posarów*, the Jews followed their rabbis in crowds into the Catholic churches, just as the Catholics accompanied the Jews in throngs into the synagogues, to chant the same national song. Henrik Ibsen wept for joy that in the common heartbeat of sublime exaltation the New and the Old Testaments were fused together, were indeed bound together! And I recall a similar spectacle as a boy in Venice, in 1848-49 when I attended the church of my fathers.

But to-day acts of cruelty are reported, and verified, which it revolts our pen to transcribe! In the city of Zamość, to give only one instance, after the Austrian troops were forced to withdraw, the Jews were accused of having secret relations with the invaders. The unhappy ones protested, they denied; but with the greatest injustice five of them were hanged and twelve were imprisoned. While these were awaiting the same fate they were saved by a recently arrived Russian priest who, under oath, could prove that the Jews had not been in league with the Austrians; rather, some Poles had even set up a hidden telephone. Thus those martyrs were freed on the very verge of being hanged!

What will they say in heaven, where they long for the redemption of Poland, those heroes of 1794 and 1863? The Poles should hasten to wipe out these stains, all the more so since I have the testimony of their eminent men, who feel the shame and wish to free themselves from it.

I weep now the same bitter tears I shed when the Russian Poles were persecuted for their Catholic faith, when recently the youths of German Poland were forbidden to take the communion in their mother tongue. If there is really a God who is concerned with the miseries and wickednesses of his creatures, he should mark with signs of heavenly reproof these human beasts who profane him in such guise, pretending to pray to him, and worship him in such evil manner!

And we wish to bring this most sad theme to a close by relating the episode of a Jewish soldier who fought heroically in the ranks of the Russian army in Galicia. He was sent, seriously wounded, to the hospital of Moscow, and after the amputation of a leg was found to be a Jew. Then he was driven out of the asylum of grief, and out of the city, since he had no right to live outside the pale, whither he had to return. The poor fellow dared to point out that, that place being occupied by the Austrians, he would be taken prisoner. But the harsh administrators of an iron custom said that having lost a leg he was no longer a useful being, nor dangerous in the hands of the enemy.

It is reported that the liberal Russian press took up this gloomy case and put an end, by their clamorous protests, to the tragic wandering of the obscure hero.

This represents the history of all religious oppressions, the symbol of all the vagrants and wanderers on earth, driven by a barbarity aroused in the name of God. . . . For from the highest mercy and from the highest charity, from Him who decreed on earth love even toward one's enemy ("That ye may be the children of your Father which is in heaven; for He maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust"), human perversions have derived the most iniquitous hatred, the most frightful massacres, calling upon the civilized world for reparation and pity!

Noble and eminent men, like the Honorable von Jaworski and others, wrote to me, grieved by the charges I had made;[2] I replied then with the following brief note (March 29, 1915):

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[2] I publish von Jaworski's letter:

VIENNA, March 24, 1915, I Neutorgasse 9.

EXCELLENCY:

Your Excellency's article in the *Corriere della Sera*, in which you expressed in so beautiful and eloquent a manner your love and your sympathy for our people, has filled us Poles with a feeling of profound respect and heartfelt thanks. Through your mouth there spoke to us Italy, the cradle of every western civilization, which we proudly and whole-heartedly acknowledge. Italy spoke to us, the country which for centuries suffered its dismemberment, and won for itself by an heroic struggle, through the power of all its national forces, unity and independence, supplying us with a sublime example from which we drew, in the day of defeat and discouragement, new strength and new courage to continue in hope of the future. Italy has bound us with the bonds that are easiest to bear and most difficult of all to break—the bonds of gratitude and love. Can there be a finer relationship between people and people?

And yet how often do we see the loving relationship between man and man grow cool, dissolve, break into bits, apparently without powerful reason? The observers seek an externally visible cause and forget the blind power of that obscure force, which can cloud even beauty itself and disrupt harmony, that force called *misunderstanding*. . . .

In individual human relationships its corrupting influence is to be profoundly deplored; to the relations of peoples it ought to be allowed no access, for the most beautiful and disinterested sentiments should not fade and wither like flowers trampled carelessly in the dust of the street.

Such a misunderstanding exists, if there is raised against us Poles the charge of intolerance or even persecutions and brutality toward our countrymen of Jewish religion. No misunderstanding could be more dangerous, if it were able to find ground and take root. By so much as it may appear dangerous it is, however, fortunately easy to dispel: there are several arguments which indicate the impossibility of such an attitude on our part—arguments internal and external, moral and physical.

Is it logically possible, is it in general conceivable, that a people whose fatherland "is a symbol of all who have loved the loftiest ideals of humanity" should fall into the torpid, bestial, brutality of massacring the Jews, should torture to death their companions in life and suffering, because of the fact that they celebrate as a day of rest a different day of the week, and that they pray to the same God at different hours? Even if such grievous folly had entered some individual spirits, is it possible that it should suddenly, over night, develop in a whole people? Such a nation would not deserve that proud name; one would have to deny it, in the name of civilization and humanity, the right to exist in Europe.

In the soul of a people there are no gaps or fissures. A people may develop, it may continue to build up to-day on the acquisitions of yesterday. But can it therefore by to-morrow already forget yesterday?

Can we carelessly cast far from us the most precious heritage of our forefathers, one of the most fundamental principles of the Polish state, the broadest tolerance toward all men of other communions, without giving a mortal blow to ourselves, to the conscience of our people?

I ask still again: Is this logically possible, is this in general conceivable?

"No—we must devoutly preserve the principle we have assumed, seek to conform to the modern idea, in order to give living form to the high words of the poet:

Was du ererbt von deinen Vätern hast,
Erwirb es, um es zu besitzen!

If Brandes reproves us for being the promoters of the persecutions of the Jews, it is a misunderstanding which is removed most easily by the facts he himself adduces. He has attributed to the Poles acts of which the Russians were guilty.

For whom then did the three hundred thousand Jewish soldiers fight? Who had the duty of recompensing their valor and their spirit of sacrifice? —the Poles or the Russians? Have then the Poles in Russia such power of authority that they are able to arrest and condemn anyone to death? You yourself, Your Excellency, praise Russia for her promise to grant autonomy to the Poles. This promise, however, has not been carried out. And thus your article, Excellency, is a clear accusation against the Russians, not against the Poles. What had the Poles to gain by the massacres of the Jews? Nothing, or, at

WHO KILLS THE JEWS IN POLAND AND IN RUSSIA?

THE distinguished President of the Supreme Polish Committee residing in Vienna, writes us a most interesting letter purporting to prove that the Poles of Russia and Galicia have no part in the slaughter of the Jews, the blame for which he fixes on the Russians; he also denies the charges put forth by Georg Brandes. We received other letters from Poles of Russian Poland and from men of public life in Petrograd. They all tend toward the same end: they wish to shake from their own back the responsibility for the blood of the poor Jews which has been shed; which is an excellent index. They feel the shame and the sorrow of the charge, and despite the evil of the times, so fertile in cruel carnage, they wish to push far away from themselves the shame of having shed blood through religious hatred. But then we ask in our turn: Who has killed and continues to kill those unhappy ones? Who has made of them such a horrible shambles? Since they all claim to have their hands free of their blood, and since so many murders cannot be explained as the work of assassins, would it not have been worth while for the Poles of Austria, of Russia, and of Prussia, and for the Russians themselves, abhorring persecutions, to make stern and sincere investigations, questioning the victims too, and permitting them to speak the truth without fear of imminent vengeance? It is with these questions that we dispose of all that was said to us and written to us by those who are denying the statements of Brandes, who is a formidable accuser, because of his courage, and because he loved and defended Poland when no one took account of her, no one heard the groans of those free and brave men, chained by implacable destiny, to whom we wish full spiritual and political redemption. But meanwhile the just complaints of the Jews without a country and without defense

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most—shame! What had Russia to expect from them? Much: even the turning aside of all the gathered ill will of the people from the real culprit, from the government, to the innocent, the Jews.

The true promoters of the massacres of the Jews are easily to be found.

There are proverbs which, though old, are always up-to-date, and such a one is in point: *Is fecit cui prodest!*

Where did the massacres of the Jews have their origin?—in Russia.

What state caused to explode in bestial massacres the threatening discontent of its people nourished through long years of slavery?—Russia.

What State had the effrontery to conduct ritual trials in the face of the whole world?—Russia.

Against what state interests was the supposed espionage by the Jews turned in the city of Zamość? In what holy capital was the wounded Jewish soldier cast out of the hospital because he was a Jew?—Russia's.

Is fecit cui prodest!

Your Excellency's statements came to the attention of all Europe through the medium of the *Corriere della Sera.*

The name of the author gives particular importance to the accusation against the Poles therein contained.

Would it please Your Excellency to make public my words also, in the name of justice?

In this expectation I sign myself, with the greatest regard for Your Excellency,

Devotedly,

WLADYSTAW LEOPOLD JAWORSKI, *President of the Polish Committee* were heard and received in those great immortal refuges of religious freedom—the United States of America and Great Britain; men of unimpeachable authority in those emancipating countries are forming committees all over the civilized world to defend the most precious of human liberties in the days that are not near at hand, when the terms of peace are made. Without an unconditional guarantee, consecrated by laws, of the freedom of belief and philosophic speculation, our planet would be bereft of one of its loveliest lights.

I republish also another article written in the first month of the war, a witness of my great interest in the fate of the martyr nation, which I did not cease to love even when it turned persecutor.

TARDY REPARATIONS TO POLAND AND RELIGIOUS FREEDOM

IF one had to decide which of the oppressions suffered by the Poles, in Russia and in Prussia, was the greater (the Austrians gave them absolute equality, sometimes even power, and it is not fitting now to inquire into their motives), one would encounter serious difficulties in the sad analysis. Because of its religious persecution, its prohibition against praying to God in the mother tongue, its harsh provisions concerning landed property, its unsuccessful attempt to expel native-born landowners from the soil of their fatherland, both heaven and earth would place Prussia first. But Russian intolerance, joined with the rulings of a bureaucracy less scrupulous than the German, has ended by harming the unhappy Poles constantly more and more. They are, together with the Finns and the Alsatians, the martyrs among nations, although there can be no parallel possible between the less harsh manner in which the Finns and the Alsatians are treated, and the treatment of the Russian and the Prussian Poles. For the rest, the same oppressions are felt in their surroundings; and German culture, with its inevitable liberations, works also for the good of the oppressed.

But what is happening now is singular: Prussia and Russia are repenting; Prussia grants a Polish Catholic Presul to Poznan, Russia promises political and administrative autonomy, a sort of reconstituted kingdom of Poland. If the four million Poles of Prussia, and the 4,967,000 of Austria, were joined to the eleven million of Russia, they would make a great free state adjoining Russia, and they would become the center of attraction for the other four and a half million scattered over the world, especially in the United States of America.

Those rejected ones, to-day, in the moment of need, are receiving splendid promises; but will these be kept on the day when they fall due? Was it not better to treat them humanely, justly, like free men, even when it was not necessary to put their loyalty to the test? Do not the oppressions in the day of indisputable omnipotence seem all the more blameworthy in the light of the liberation promised in the hour of need? What a lesson to those states which think themselves beyond dispute and infallible, and, as such, not bound by the rules of a government which is just, fair, liberal! They do not suppress ideas which are inextinguishable faiths, rooted in the conscience of unhappy peoples! The history of Italy teaches that to all the oppressors, to all the oppressed.

Thus the Russian government promises also to those other rejected ones, the Jews, equality of treatment, as was done, not with complete candor, in Roumania when the government called them to arms; but she forgot later to keep the promises, perhaps also because of the extraordinary seriousness of the situation.

The governments which are for long years unjust to whole classes of citizens, venture to perceive the fact only when they fear the effects of their iniquities; the hour of peril past, in ordinary times, they repent of their repentance. If from the immense disasters generated by the war in progress, which are no longer reckoned, there should come forth at least the rebirth of the Polish nation, civil and political equality for the Jews in Russia and in Roumania, a feeble ray of goodness would illuminate so many miseries, so many human infamies. But who dares to believe and even hope that it will? Now, when all the inhibitory bonds and bridles of public and private morality are shaken off, the last word will be uttered only by the fortunes of war.[1]

Then with the victorious peace and on the tomb of three empires, Poland arose from the ashes.

> *Quand ce jour viendra,* [one of her most ardent sons had written me in 1915,] *la question juive cessera d'exister chez nous à l'état aigu.*[2] *La reconstruction de la patrie, sa réorganisation exigeront le travail commun de tous les fils de la même terre. Il n'y aura point de disputes, parce qu'il n'y aura pas d'influences extérieures. Tous les Juifs, sous la direction expérimentée des Juifs polonais qui se considèrent comme citoyens du pays, collaboreront sincèrement avec la culture polonaise qui leur assurera la liberté complète d'exercer leur religion et de se développer pacifiquement. Un peuple dont tout le passé témoigne de son amour pour la liberté et la justice, ne trahira certainement pas son idéal dès qu'il pourra en profiter lui-même.*

Why has the Jewish question continued to exist—to become in some respects intensified—despite the precise and firm stand of the Jewish members of Parliament and of all the Poles of brave hearts and chosen minds, and despite the constitution of 1921 which decreed equality of rights for all citizens? Whose fault is it? I am inclined to believe that there was some blame on both sides, but the one that suffers most in the grave crises is undoubtedly the suspected and hated minority, the strong minority which formed about three million out of twenty-eight million inhabitants, and whose situation becomes constantly more tragic.

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[1] A telegram was sent to me by the Poles interned in Sardinia after the motion presented to the House in 1915, as follows: "With reference to the motion presented to the House concerning Poland, the Poles interned in Sardinia cordially applaud the noble initiative, worthy of the great country mindful of poor Poland, petitioning the government for justice and liberal provisions, with revocation of their internment on this island, since they have nothing in common with the age-old enemies of Italy."

[2] Then the acute state which they had tried to deny, did exist!

The majority of the deputies and the government have, up till now, permitted anti-Semitic demonstrations in the schools, on the part of the officials in their administrative functions; but the whole matter has raged on economic ground. Here there has prevailed for some fifteen years a movement which tends to drive the Jews out of commerce, to put Polish Catholics in their place. For this purpose there exists the vast organization of the Rozvoj society. The government, the citizen administrations, and the officials, practically rule its activities, especially when it is a case of supplying the state or the municipalities. From the Finance Committee, the Economic Committee, the Customs Committee, the Bank of Poland Trustees' Committee, the Jews—who still represent important interests in industry, commerce, and the crafts—are rigidly excluded. Also, in the application of the heavy taxes recently decided upon to balance the budget, they justly complained of the excessive severity used toward them. Further, Saturday was established as a day of trade, thus confronting the masses, who in those parts are religious, with the alternative of economic ruin or infidelity to the rites of their faith. And of recent date is the bill by which the holders of concessions for the sale of articles controlled by monopoly (salt, tobacco, etc.) are deprived of them without recompense. This law cuts deep, and casts into the street about thirty thousand Jewish *concessionaires*. Many Polish members of Parliament (opposed to an expropriation without recompense) did not approve it, but no one protested.

In the question of the schools the situation is far from satisfying. In the elementary grades the Jewish pupils are not obliged to take part in the Catholic religious instruction; rather, the law provides instruction in the Jewish religion for the minority who profess it, but it is a negligent or despised instruction. In fact, in the budget only a sum corresponding to two thousand dollars was assigned for this sect, a ridiculous sum compared to the general appropriation, not proportionate to the aid given to the Protestants or even to that assigned to the Mohammedans. And yet the taxes are borne by the cities, and therefore in good part by the Jews, who are for the most part an urban element. Five per cent of the Jewish children attend the public schools, all the rest go to private institutions, assisted only by the communities and where the school taxes are heavy. According to law the right of practicing the medical profession does not depend on religious faith or nationality; but in practice Jews are hardly admitted any more into the faculty of medicine. To eliminate them from the law, where they were numerous, an effective means was found: their exclusion from registration as apprentices in the courts, an indispensable condition to their admission to the bar (in 1923 out of 133 candidates there were but four Jews, or 3 per cent). The *numerus clausus* is not obligatory; the councils of the several universities can apply it if local conditions dictate. However, they make such difficulties for the Jewish students that, despite their wretched circumstances, many emigrate abroad, giving to the Italian, French, Czecho-Slovakian and some German schools of higher education a considerable number of Polish Jewish students. Then, on returning to their country after so many sacrifices, they encounter serious and sometimes insurmountable obstacles to the recognition of their foreign diplomas. The Poles rather maintain that the percentage of Jews in the higher schools is much greater than their percentage of the population, forgetting to take into account that this minority lives almost exclusively in the cities and belongs to the class of business, of finance, of industry, of the liberal professions, law and medicine (very few are farmers, few artisans), classes which are given to the learned professions and therefore to study.

This inequality is noted, further, in the virtual impossibility of obtaining state positions. And here we should recall the three parts of which Poland is composed. In the former Austrian provinces there were, at the time of annexation, various Jewish officials; these retain their posts under the new government also. But gradually it seeks to reduce their number, and new ones are accepted only in exceptional cases.[8]

In the army the situation is no better. And yet the legions that fought for Polish independence during the war had a notable number of Jewish volunteers. Despite this, the atmosphere of the army is anti-Semitic. There exists, for instance, a secret order of the Ministry of War (tacitly approved by the preceding minister) that proscribes the Jews, even if they are competent, from the rolls of the regiments. And General Serda-Teodorowski delivered on December 24, 1924, in the War College in the presence of Jewish students, too, a speech in which he said:

> . . . We have a difficult mission, but we shall know how to accomplish it. The Bolshevik yoke, that is, the Jewish yoke, must be broken. We must stamp out the Jews from all parts of Poland, as we have done in Poznan. . . . Let us seek to take away from the Jews all the posts which they have occupied. Let us begin by driving them out; and in this way we shall succeed in the end which we have set for our efforts.

The hostility is stronger in Poznan and in the territories which had belonged to Germany, where Polish anti-Semitism encountered German anti-Semitism, perhaps even more tenacious. In those provinces Jewish colonization has been rendered impossible; it is often prevented by force. Sometimes the Jews are forced to emigrate; thus whole communities have ceased to exist. A reactionary association of Poznan ("League for the Defense of the Fatherland") has leaders who for a long time were able to assault and beat any passing Jew with impunity. One of these was named Sekretarczyk.

The tone of the Polish press (of Warsaw and of the former German provinces) has up to now been so provocative that the authorities should have intervened, as was their duty. But they did not do so. And yet the Polish courts are most severe against the Jewish press. Another instance which expresses the temper of the population against the minority is found in the fact that when, in Moscow, a Soviet tribunal condemned some Polish priests, there broke out in Poland serious demonstrations against the Jews.

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[8] And of these the major part are converts.

How serious their political and economic situation is, is demonstrated by the growing number of emigrants. Economically the Jewish middle class may be considered ruined, especially after the recent taxes imposed to balance the budget.[4] And here it was attacked especially:

1. Because they did not wish to tax the farmers (and the Jews are not farmers);
2. Because, instead, the cities were taxed, where the percentage of Jews is high;
3. The government wishing to favor, in the cities, small trade and industry, taxed especially the Jewish manufacturers and business men; the ruin of these gives the Poles a means of subsistence.

Recently Grabski, the ex-Premier, in an interview in the *Wiener Journal*, expressed the wish that the Jews would return to Russia, and one got the impression that he considered them a troublesome and superfluous population. The political parties are anti-Semitic, or keep silent for the most part, for fear that they will be rebuked for defending the Jews. The treaty concerning minorities has been published in Poland, but toward the Jews it has not up to now been enforced. Equality is written only in the protocols.

If America and England had not placed so many restrictions on their borders, hundreds of thousands of Jews would have emigrated there in view of the enormous economic and political burden which weighs upon them. The emigration to Palestine grows constantly greater, but the capacity of Palestine is limited.[5] And since their entrance *en masse* into other countries is impossible, what are these unfortunates to do? [6]

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[4] Strange decisions on the part of the officials have been made. For example, of two members of the same firm, the one a Jew and the other a Catholic, the former was taxed (on an equal income) five times as much as the latter. They wish, further, to attack Jewish labor, the most wretched. There are those who want the return of the old régime, under which the right to open an office or practice a trade would be dependent upon an authorization granted by the councils of the corporations, on which none could sit but Christians. And take note that there are some hundred thousand Jewish workers!

[5] To the consecration of culture in the new temple of science (traditionally esteemed by the race) and to the miracles of abnegation accomplished in order to give to the land its ancient fertility (the expression of a labor quite different from that of the bank and the exchange), my two articles which close this chapter refer.

[6] Recently there has arisen the hope of a new outlet for Jewish emigration. The Soviet government and the "Joint Distribution Committee" are studying how to assign—sharing the expense between them—certain stretches of land on the Don, the Volga, and in the Ukraine, for the installation of Jewish families who will dedicate themselves to the cultivation of the soil. Thus some thousands of wretched or persecuted persons will find, perhaps, peace and work. But while the American Jewish associations, and eminent men well disposed toward this unfortunate people, like Mr. Louis Marshall and others, are favorable to the project, the Zionists are opposed. They fear a trap, the rich Jews of America who concur in this plan being mostly of German origin; they fear

The situation is unbearable, almost tragic. A great part of the Jewish business men, tradesmen, the middle class, are thus becoming "proletarianized," and driven to despair. Now these "proletarianized" masses, driven to despair, are easily accessible to extreme parties, and such an attitude will not result even to the advantage of the Polish state. It depends on the new government whether all this will not happen, for there is no more tranquil element than the Jews, whenever they are justly treated. But every country has the Jews which it deserves.

And yet the Jewish population has always shown its attachment to Poland. Recently, when the Germans demanded the cession of territory lost on the eastern frontier, the Jews rose up against Germany, and their academies, their associations, joined the Poles in signing vehement protests. The other minorities on the contrary (the Ukrainians, White Russians, etc.) bore a negative aspect. But these acts are not given their due weight. And if since 1918 there have been no pogroms in the strict sense of the word, the attitude of the authorities and of the population is equivalent to a silent economic and political pogrom.

The Jewish members of the two branches of Parliament, in the face of these failures to fulfill the provisions of the Treaty of Versailles with respect to minorities, have shown patience and prudence; they have not appealed to the League of Nations, as was done elsewhere, and in Poland itself, by other minorities. But immediately before the accord of July, in view of the growing hardship of their condition, they gave notice to the government of their intention of going over to the opposition.

Then, in the summer of 1925, an agreement was made between the Jewish Kolo (parliamentary group) and the government. The initiative came from Count Skrzynski, then Minister of Foreign Affairs. The Jewish demands were the following: in the economic field, abrogation or diminution of the Sunday closing law; [7] appointment of Jews to fiscal commissions; the right to obtain credit from the state bank; admission to public offices, to the various civil services; and the right to furnish supplies to the state; in the cultural field, extension to the frontier territories of the law concerning religious communities; the concession of subsidies to the Jewish public and private schools; abrogation in the secondary schools and higher institutions of the *numerus clausus*, secretly applied; admission to the bar, etc.

On its part, the government required among other things that the

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further that the Bolshevik leaders wish to check England, and diminish the influence which she exerts upon all Eastern Jewry by the declaration of the "national home," and by the Palestinian mandate; they fear that the Russian government will compromise this poor people by establishing it on land arbitrarily confiscated and by exposing it to the worst reprisals in case of political reaction; in short, it is probable that a systematic campaign to acquire lands for a certain class of citizens, in a position of special advantage, may set loose those grave conflicts which often are produced when two groups are rivals in agrarian distributions. Perhaps both the one and the other are right!

[7] The Jews have to rest on Saturday, according to the rites of their faith, and on Sunday they have to suffer an enforced rest in order to abide by the custom of the majority.

Jewish deputies should abstain from any opposition to the party government,[8] and that they should second it in its policy of "Polonization" with respect to the border nationalities (Ukrainians, White Russians, etc.).[9]

Good will on the one side and the other (despite the decree referring to the withdrawal of the concessions for the sale of articles of monopoly, approved in the meantime against the request of the Jewish members), finally brought about an accord on July 15. And while the government pledged itself on its side to accord greater importance to the needs of the Jewish population in the fields of instruction, culture, and economic life, the Jewish members issued the following declaration:

> The Jewish parliamentary group, immutably loyal to the principle of the inviolability of the frontiers and to the interests of the Polish state as a power, recognizing also the necessity for the internal improvement of this state, declares that, in conformity with such principles in its general and national policy, it will work for the defense of the rights and interests of the Jews in Poland.

A chosen Polish spirit—one of those guardians of the liberal traditions of the race, which in all times seek to keep cordial the relationship between the peoples of a state, a disciple of the Humboldts, of the Macaulays and of the Gladstones, and who when sentiments come into conflict try to re-establish peace with love, true apostles of humanity, which tears itself to pieces—gave me the consoling news in the letter which I publish in the footnote.[10]

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[8] Note that the government tended sharply toward the right, while the Jewish deputies are, for the most part, affiliated with the advanced parties. To them this meant betraying their political faith.

[9] The wrath of the Ukrainians was so great at this news that their press predicted a violent campaign against the Jews and an economic boycott.

[10] Senate Rzecypospolitej Polskiez

WARSAW, July 16, 1925

YOUR EXCELLENCY:

I sincerely ask you to excuse me for not having sooner replied to the various questions which you put to me and which I had promised to study, and to report to you the result of my investigation. Meantime, the political situation on this subject has taken a new turn, and I am able to report to you the final results and official statements, and the conclusions and declarations which now constitute a new phase in the relation of the Jews to our country. Your Excellency will see that the reproach of Polish anti-Semitism is not based on age-long feelings, but on the contrary we have been enabled to reach an understanding. After my return from Rome, I held conferences with our political leaders on the subject of the relations and complaints of the Jews and the excessively violent propaganda carried on against Poland abroad, where people know little about our country and our customs, and each article published increases the recital of the incredible alleged atrocities committed by us.

Our political leaders on the one hand, the Jewish parliamentarians on the other, have attended conferences designed to bring about an understanding. Besides, the Jewish parliamentarians have considered matters between themselves and their electors, which, as you understand, were very complicated and took some time. After long conferences which consumed seven weeks a complete understanding was reached, and formal statements were submitted by Jewish parliamentary leaders to the president of the council, to which the president of the council replied in turn. I annex to this letter the official text of these statements, and the disposition made of them by the council of ministers.

The month of July, 1925, seemed indeed the beginning of a new era full of consoling promises for Polish Jewry. It was hoped that the government would correct the public opinion unfavorable to an accord with the Jews, and that the political solution of the grave problem would solve in time the psychological problem. But those hopes have been fulfilled, up till now, only in small part. It must be acknowledged, however, that the atmosphere was changed after the negotiations[11] and that already there begins to be faced that ancient question: the organization and official recognition of the Jewish communities in the eastern provinces. Furthermore, it has been decided to admit Hebrew and Yiddish in the postal-telegraph service, beside all the other European languages; and from now on, also, it will be easier for the thousands of Jewish families who live along the eastern frontier to acquire Polish citizenship. The grave economic-financial situation that the country is passing through delays, according to some, the execution of the relief that has been undertaken. To my mind it ought to hasten them, since all the citizens in agreement will face the crisis more effectively, if peace reigns in their minds. But the Jewish Committee of the Sejm (Parliament) has manifested its ill-will against its own president, Dr. Reich (together with Count Skrzynski, the author of the agreement), indicating the intention of replacing him and of going over to the opposition, because the law concerning communities is still in the form of a bill, because there is no talk of assistance to the schools, because the Jews are being tyrannized over economically by the fiscal agents who demand full and immediate payment of taxes from them, while to the other taxpayers they grant reductions and delays. In the matter of instruction, the committee does not inveigh against the existing percentage in the secondary schools and higher institutions, but rather against the very principle of such limitation, and the complaints (justified

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I believe Your Excellency will be fully satisfied by the conclusion reached regarding questions which interest you so greatly and which are so delicate. If our meeting at Rome and the interesting conversations which took place between us, as also the valued letter which you addressed to me, have aided in reaching such happy conclusions, I can assure Your Excellency that I bless the thought which induced me to visit you and conduct our conferences, which have such an important result.

I ask Your Excellency to excuse the delay in my reporting the results arrived at, and I pray that Your Excellency, etc.

LEON LUBIENSKI

[11] This somewhat tranquilized atmosphere has made possible the conviction of the accusers of Delegate Grynbaum and the development of a case which redounds to the honor of the Polish magistracy: the recent acquittal of the student Stanislas Steiger (despite the hostility with which the society of Leopoli was filled), accused, as is known, of having thrown a bomb at President of the Republic Vojciechowski on September 5, 1924. The trial dragged on long enough, despite the lofty and noble defense of lawyers like Grek (Christian), Ringel, and others (Jews), and despite the fact that the true culprit, the Ukrainian Olzanski (meantime fled into Germany), spontaneously denounced himself to the public authorities at Beuthen and later to those at Berlin, as the author of the attempt committed at the behest of a secret Ukrainian military organization. But Leopoli society is so shaken by passion that Steiger, freed, has had to flee from his city, and leads, it seems, a most retired life in Warsaw, in order to withdraw from anti-Semitic threats.

or exaggerated) never end. The Zionists proclaim the failure of the method, according to which the life of the Jewish groups of the Diaspora should have developed with sufficient guarantees of the protection of their racial characteristics. For its part, the government will recommend patience, and will probably observe that a question which has been acute for more than a decade cannot be settled in the course of days or months. But it has many means of solving the problem, and if its will is firm it will succeed in its purpose. Especially does the new premier Skrzynski, a liberal spirit,[12] author and sponsor of the July agreement, give hope of a renewed and more sincere attempt to realize the undertakings, however little Poland may be sustained in its efforts by public opinion, from the example which reaches it from the neighboring countries.[13]

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[12] Skrzynski made this significant declaration to the Jewish newspaper *Nasz Przeglad* on New-year:

"The serene coexistence and solidarity of aspirations of all the citizens of the Republic are indispensable conditions to the development of reborn Poland."

[13] What the German "racists" and the nationalists in Prussia and Bavaria purposed to do if they had won in the last elections is well known: expulsions, confiscations of property, exclusion from all civil services and from the juridical, journalistic, financial professions, etc. This party of the extreme Right, so far from emerging victorious, lost many seats, but other parties which gained in strength have anti-Semitism as part of their program. Even in sports such manifestations have found a place, and the Alpine Federation has decided to restrict the number of Jewish members. In the Berlin chapter there are not more than thirty. On the front of the summer resort hotels one often sees the anti-Semitic emblem, the uncinate cross. And among the German minority, perhaps that which supplied the killer of Rathenau, one of the loftiest hearts and minds of Germany, the following hymn is sung: "We are the black bandits of Rossbach! Ajao! We will seize the tyrants by the hair! Ajao! We will string them all up! Ajao! Cast them harshly on that heap! Ajao! And set the red cock (fire) to the roofs of the Jews. We pray God to give us an opportunity to massacre the Jews. Ajao!"

In Hungary the problem was very serious. To-day signs of an appreciable improvement can be noted. As a reprisal against the detestable crimes of Bela Kun and some lunatics the Hungary of the "awakened Magyars," repudiating its ancient national traditions of liberalism, adopted a policy of hate toward the Jews. They suddenly denied them free access to culture by fixing the percentage of Jewish students, driving them out of the half-empty schools and persecuting them in every way. In Budapest, a municipality which was in 1920 in the hands of the "racists," the situation was serious. Eminent professors were driven from their chairs, officials were recalled, they began to refuse the requests for naturalization. The Primate of Hungary, Cardinal Csernowich, a spirit of the highest Christianity (an emulator of that long series of bishops of Alba Julia, in whose noble traditions there shines so purely the liberal spirit that it was they who authorized the first two synagogues of Transylvania, and they formed for many centuries the supreme court of appeal in the differences among the Jews, and worthy of the Archbishop of Paris, Cardinal Dubois, or of that unforgettable Bonomelli of ours, whom a certain French press maliciously called "*un évêque enjuivé*"), tried to arrest the threatening storm, and these declarations of his were published, on January 2, 1925, in the *Pester Lloyd:* " . . . If we do not wish to perish entirely (after a fatal treaty) we must return to an ancient level of culture. . . . I know no difference between men. A close friendship binds me to the Chief Rabbi of Budapest, a very worthy and wise man, for whom I avow the greatest esteem. There are honest and dishonest persons: this is the only difference that I recognize among men. It is not true that the Catholic church favors the anti-Semitic agitation. . . . I am watchful that the Hungarian clergy not only do not participate in it, but rather reprove it in the most decisive manner under all circumstances. The fundamental dogma of Christianity is love for all our brothers, of humanity without distinction of faith, race, or condition. Whoever makes himself guilty of agitation against the Jews is not only a person of no account but a

Perhaps it would be wise for the Jewish element to be patient still, as far as their situation permits, in order not to lose the ground that has been gained; but this element is divided into so many factions, with such different programs, that to maintain all these tendencies in an atmosphere of serene and trustful expectancy is no light task. As it seems, it is separated into various regularly organized parties; that is, into Zionists, Mizrachists, Poalé-Zion socialists, right wing Poalé-Zionists, Orthodox or Agudists, independent Orthodox, Folkists, and Bundists, tendencies which range in religion from orthodoxy to atheism, and in politics from one extreme to the other. Neither is there harmony of aspiration in the linguistic problem, since, while the mass speaks Yiddish (a Hebrew-German dialect, that has become the national tongue) and wishes to preserve this language of the ghetto of eastern Europe, the élite is in favor of Hebrew.

The writer of these pages loves the Polish Jews because he feels their griefs, he loves the Polish nation for the tragic greatness of its history, for the deeds of civilization it has accomplished, for the glorious insurrections intended to free it from dark tyrannies, and for that holy faith which surged in the soul of Mickiewicz, of Garibaldi and Mazzini, which then drew our hearts to Nullo to fight in Poland to free it from the talons of three imperial eagles. It is impossible that out of the griefs

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very bad Christian, because he spurns the most sacred commandment of Christianity. . . . From the height of this age-old seat of Christianity, I cry to the authors of these so scandalous acts that they are men without law and without faith, who cannot claim the title of Christians, nor yet be worthy of the quality of human beings."

The situation was so fraught with menace that Minister Bethlen had, some time ago, to institute a government executive commission in the city of Budapest. Then little by little the atmosphere calmed somewhat, and in the last elections, falling in the spring, the "racists" lost their majority. Recently Parliament discussed the *numerus clausus*, and not only the liberal deputies but also members of the government bloc and the Catholic authorities arrayed themselves decisively against it. Noble and important speeches were made by Count Hoyos, Deputy Tankovics (representative of the peasants' group), the Honorable Georg von Lukacs, Goergey, Beck. The ex-Minister of Finance, Roland Hegedüs, showed the harm of the *numerus clausus* on the financial side as well, since the Jewish families have to send their children abroad, a necessity which takes money out of the country. "The law is too onerous," he concluded; "I have come to the conclusion that the Jewish problem resembles hysteria: it exists only when it is spoken of. . . . All those who are still able to think as true patriots, I beg to remember the words spoken by our great king Kalman three hundred years ago, when Croatia was united with Hungary: There is no need to talk of witches, because they do not exist."

Despite these authoritative voices the Minister of Public Education declared that, even considering the *numerus clausus* an evil, he did not see how to get rid of it, However its application in the University of Budapest will be diminished to the extent that the provincial universities create scholarships to receive students without means. It is a step ahead, but still no one has had the courage to attack the "awakened Magyars!" And yet the Jews of Hungary have rejected the intervention of the great Anglo-American and French Jewish associations in aiding proposed remedies before the League of Nations, declaring it an interference in the internal affairs of the Hungarian state. They will continue the fight against the *numerus clausus*, and by themselves will bring the question before the government and the legislation of their country.

Nevertheless, the "Conjoint Committee" and the "*Alliance Israélite Universelle*" brought their petition to Geneva. But the Council of the League of Nations has decided not to discuss it, trusting in the promise of the Minister of Public Instruction that the law concerning the *numerus clausus* will be modified in the near future.

of the oppressed Jews and of the Polish people (which drank the cup of oppression to the bottom), free but still suffering, and surrounded by suspicious neighbors, peace should not come. By the common labor accomplished in the past, interrupted in ill-omened manner and to-day more necessary than ever, the longed-for day is hastened, invoking the reconciling memory of those times when the two brother races suffered, fought, and died unvanquished, to burst the triple chain with which they had been bound by their perpetual enemies, among whom stand first those who were really responsible for the tragic flight of Jewish masses out of Russia, and for the complicated problems which arise and are renewed in eastern Europe.

A MESSAGE TO THE HEBREW UNIVERSITY IN JERUSALEM

HERE in the temple of science, lofty and pure as a temple sacred to God, the children of Israel must raise their minds to the supreme heights of the ideal, drawing from it, together with community of knowledge, political concord; divided in creed and in philosophical beliefs, let them be united in the basic principles of liberty.

Let us never forget that even before the dispersion, the Jews were martyrs of civil progress, and in the days of their redemption they should be and seem to be meek, forgiving, voicing their gratitude to God together with sincere benevolence to all other faiths. It is in Palestine that there should shine the sun of those historical days in which Christians, Mussulmans, Jews present the example of observing their religion with mutual respect, rivaling one another only in the greatness of the benefits which each shall give to the unhappy and the ignorant.

I trust that there will issue from your University new discoveries, new advances in science; but the greatest discovery, the decisive advance, will always be that of the prevalence of deeds of charity among the inevitable controversies, human and divine; let us consider them all as different notes from a harp, which agree in a celestial harmony.

With this hope I greet you, and in the sacred place where you have your seat I wish that you may become the apostles of a humanity more upright, more pacific, worthy of repeating, by fulfilling it, the immortal prophecy of Isaiah:

"They shall beat their swords into ploughshares, and their spears into pruning hooks; nations shall not lift up sword against nation, neither shall they learn war any more."

O house of Jacob, under the auspices of the Prophet, walk in the true light of the Lord!

April 1, 1925.

THE JEWS AND AGRICULTURE IN PALESTINE

THE Jews who, in order to free themselves from savage persecutions, in these recent years have sought, under the auspices of England, refuge in Palestine, asked me in 1920 for a message on agricultural coöperation, and I replied at once with trustful good will.

I was glad to help those associations in Palestine in my old age, as I had done in my youth in Italy, and I said that in Palestine the Jews should prefer tilling of the soil to all other labor, reviewing the biblical miracles of the grapes wonderful for weight and flavor. Having become free, they should abandon the petty trades, to which the prohibition against becoming farmers had constrained them, and take up again the Mosaic traditions.

To-day consoling news arrives concerning the salutary affairs of those farmers. At Nahalal, a comfortable and pleasing site, the emigrants established three years ago a redemptive coöperative society where first there stretched a vast swamp swarming with mosquitoes and infected with malaria. The Germans had tried in vain forty years ago to colonize that place, and the Arabs used to say that not even the birds could live there. The redeemers of the swampy lands prepared themselves for bitter hardships, and in the first year 60 per cent of the colonists were attacked by malaria. Now there are no longer mosquitoes nor is there malaria, and thanks to fourteen miles of canals the water that formerly fed the swamps is now used for irrigation.

In a short time the colonists have grown sixty thousand vines, thirty-one thousand trees, and twenty-five thousand other trees, in addition to a dairy. All this was done by seventy-five families of the colony, living in patriarchal fashion, cultivating two thousand acres of land. Balfour too rejoiced that in this coöperative society there was proof of the tendency of the Jews to leave the cities, to be transformed into excellent farmers.

Soon after, another colony arose, called Balfouria, near an orphanage which shelters children left without parents by the pogroms and which is specially financed by the Jews of South Africa, while the village of Balfouria is supported by Americans. And at Tel-Aviv an English manufacturer feels himself so secure in this society that he has established a cigarette factory fed by the tobacco grown on the lands that have been newly made fertile.[4]

The bold experience of colonization undertaken by the Jews in Palestine has a value transcending that of the problems of race and Zionism. It proves that the Jews can, after twenty centuries, be again unsurpassable cultivators, and it proves too that the Syrian land, for thousands of years a squalid, desolate, rocky desert, can become once more a smiling garden.

Oh, if agrarian reawakenings, instead of exciting the envy of the Arabs, may avail to transform those Semites too into brave farmers, the Jews of Palestine, saving themselves from the perils of their race—excessive humility in misery, pride in the days of good fortune—would bring about a revival of western Asia! If the Arabs would greet the new, and at the same time ancient, children of that land as brothers who are helping them to develop the hidden wealth of the soil, if Christians, Jews, Mohammedans, would persuade themselves that their creed invokes and requires reciprocal justice, and that God, the father of all races, wishes to be worshiped in good will and not in persecutions, what light would be released once more from those lands, the redeemers of four continents!

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[4] I point to only two examples, but how many other gains have already been made from the soil by these fearless pioneers!

May 30, 1925.

APPENDICES

APPENDIX I

CONTROVERSIES CONCERNING RELIGIOUS FREEDOM [1]

IN the book *Libertà di coscienza e di scienza*, Luzzatti studies in the history of many periods and many countries the laws concerning the various religious cults, and the means by which the civil power exercised its action upon the different creeds, to protect them, to tolerate them, or to prohibit them. But since the state, incompetent in matters of theology, should remain outside of any religious opinion, taking care only that in the exercise of the cults nothing be done which may redound to the harm of the body politic, respecting the freedom of all, the goodness of the doctrine that Luzzatti propounds is in consequence seen: the freedom of all religions in the sovereign state. He demonstrates the reasonableness of such a doctrine, with the theories of a sound policy and with examples from ancient and modern history. The important question of the relations between church and state is treated not only with learning and insight but with loftiness and purity of purpose, the writer keeping himself aloof from sectarian exaggeration and observing things from on high, so that no one of frankly believing mind can feel himself offended by the conclusions he arrives at. [Mgr. Geremia Bonomelli, Bishop of Cremona, also recognizes the separation of church and state as "the most apt system for reconciling civil and religious freedom and making public order secure." He sees in the state of reciprocal independence, or of separation between the church and civil society, the only solution of the great problem: "Common right, full and plain common right." And he adds: "The time is ripe for this state, and in some countries it is already established, in others it is gradually establishing itself, and everything leads one to believe that in this century it will be established in every civilized country. It is the future of the church." (*La Chiesa e i tempi nuovi*, Cremona, 1906).] Such a book, written by a man of such authority, cannot but attract the attention of the studious, and provide material for discussion. Many, indeed, were those who wrote about it, the majority approving and praising; the others not sparing their censure and their objections. But the one who interpreted best of all the writer's meaning, penetrating into his spirit and setting forth his doctrines clearly, was Senator Pompeo Molmenti, in the article which he published in *Marzocco*. That article had the good fortune it deserved: it was reproduced and commented on by more than fifty journals. It was natural that Molmenti should be able to understand Luzzatti's ideas, he who had been specially concerned with the relationship between church and state in his studies in Venetian history. No history teaches better than that of the republic of Venice how religion and politics can proceed independently of each other, and how the prevention of any sacerdotal interference in the affairs of the state, benefits not only the state but religion itself. Writing of Venice, Molmenti is not content to depict, with the lively sentiment of the artist, and in every aspect, its singular beauties of nature and of art, nor to search out with the indefatigable patience of the scholar the slightest particulars of the habits and customs of the various centuries, bringing to life again on his eloquent pages both the one and the other; but he studies likewise the constitution of the state, which, if it favored religious sentiment, as an effective means for good government and discipline of the people, did not tolerate in any manner the interference of ecclesiastical authority in affairs which concerned only the state. This is a matter on which Molmenti insists in his writings on Venetian history. The concept of the freedom of the church in the sovereign state pervades, so to speak, the whole of his principal work, *La Storia di Venezia nella vita privata*, from which there emerges luminously, better than from any other historical work about that republic, how the Venetians, always respecting religion, have known how to oppose constantly and tenaciously every sacerdotal interference in their affairs, by this means keeping intact the dignity of the government.

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[1] This controversy between Pompeo Molmenti, the *Osservatore Romano* and *La Civiltà Cattolica*, and between Benedetto Croce and Luigi Luzzatti, was collated and annotated by the distinguished Prof. Antonio Zardo, once President of the *Istituto Superiore di Magistero* in Florence, in the *Rassegna Nazionale* of February 16, 1910. (Italian publisher's note.)

Molmenti's ideas agree fully with Luzzatti's, nor could a better interpreter be found than he who in his youth had had Luzzatti as a beloved and revered master. These ideas however, as was natural, were not pleasing to the irreconcilables, who, lamenting a past which despite their efforts can never return, and mistrusting all that which is a necessary consequence of the new times, mistakenly see in them a peril to Catholicism, to which their intransigeance, rather, might be a peril. Loosened from any interference in the affairs of the state, religion, which ought to be not only a flame of love but a ray of civilization, can spread its beneficent action with greater efficacy, and better pursue its lofty aims.

But of this neither the *Osservatore Romano* nor the *Civiltà Cattolica* is convinced. First the one and then the other wrote, temperately but adversely, against Luzzatti's ideas and Molmenti's article. The controversy which ensued is a rare example of learning, idealism, and courtesy, and for this reason, as well as because of the importance of the subject, it seems to the Rassegna Nazionale both fitting and proper that it should be collected from the various journals through which it is scattered and where it would soon fall into oblivion, in order to assure it a longer life.

It begins with Molmenti's article, published on May 23, 1909, in the *Marzocco*, which we reprint here:

> The volume on the *Libertà di coscienza e di scienza*, published by Treves of Milan, contains the constitutional ideas and the historical

studies of Luigi Luzzatti, who has dedicated the time that he could spare from his political life to these meditations and researches.

The introduction of this work studies the constitutional and historical bases of the principle of the separation of church and state, reducing it to three grand types: in Asia the example of Japan and the countries under British rule, like India; in America that of the United States; in Europe the recent reforms of France and Geneva, the former more striking, the latter more marked by political equity.

These three grand types have also become wonderful centers of attraction and of imitation, from which there moves and is spread through the world the idea of separation, which signifies substantially the incompetence of the state in matters of faith, which, as Luigi Luzzatti says, are the care and concern of the individual conscience.

These different types are the subject of a new examination, made with pure sincerity and unbiased judgment. Our author places himself above and beyond the clerical and anticlerical prejudices, which, as he points out, are the product of an identical moral deformity, intolerance; and he condemns them with a serenity of expression which has a force almost evangelically persuasive.

His historical researches fill in pictures astounding in their clarity and simplicity, like the inquiries into the sources and origins of freedom of conscience in Buddhism. This subject has found in Luzzatti's book a worthy, elevated and original interpretation. Buddha does not declare himself God, or the Celestial Father; he is the proclaimer of a new moral order. Whoever does not follow his doctrine is not punished by human and divine vengeance, but he does not succeed in freeing himself from the evils which afflict human frailty. In short, incredulity has its sanction in the persistence of sorrow, according to the Buddhist doctrine. But one must read the whole treatise, where religious freedom draws its inspiration from the deepest and most mysterious roots of the soul!

The prophets, the apostles, and the martyrs of freedom of conscience and of worship find their place in this magnificent book.

There are here names that were unknown, displayed for the first time, or little known ones invested now with a splendid light; both the former and the latter receive a tardy recognition, the glory due them as precursors of the liberation of the soul from the most perverse prejudices, those of intolerance, and of the liberation of states from the most baneful scourges, those of persecution.

Considered from this viewpoint, the names illustrated in Luzzatti's book—King Asoka, Themistius, St. Theodorus Studita, St. Bernard of Clairvaux, Coonhert, Spinoza, Roger Williams, and others—would deserve a place in our school anthologies as types of benefactors of mankind; and our students would gain also through their beauty of form. Splendidly and luminously eloquent are all those parts of this study, in which Luzzatti attacks those who in the name of faith declare the bankruptcy of science, or in the name of science proclaim the bankruptcy of faith.

The followers of science may be mistaken, but science is infallible, the faithful may pursue lying creeds, but the sentiment of the divine is eternal. It is for this reason that Luzzatti demands the most absolute constitutional guarantees of protection for freedom of faith and of science, which in their infinite evolution balance each other, purify each other, illuminate each other in turn.

With equally profound feeling Luzzatti becomes aroused and exalted, when he relates the glories of the men and the countries that have been the emancipators of the human conscience: Holland, England, the English colonies of America; and his words are hymns of triumph sung in honor of human dignity.

But the essential point of the book is in the comparison between the various laws of separation. Luzzatti, devoted friend of France though he is, does not hesitate to set forth the superiority of the laws of the United States of America and of the canton of Geneva over the French law of 1905, pointing out with acumen and serenity its defects and the parts blemished by intolerance; and with a parliamentary vigor worthy of him he denounces the manifold illogicalities that were revealed in the discussion in the French Chamber.

His classical formula of "free religion in the sovereign state" does not conflict with that famous one of Cavour's: "a free church in a free state"; because, as he shows, that great Italian statesman too did not and could not abandon the scientific criterion of the sovereignty of the state. Cavour gave a plastic and popular form to an identical technical idea. Luzzatti makes it clear that there are two ways of expounding this sovereignty of the state in the government of the creeds; one is the liberal way, which offers the guarantees of public and civil law to the intrinsic requirements of every creed; the other is the illiberal Jacobin way, which yields to the whims of the state, violating the needs of the creeds. This last method is disapproved and attacked by Luzzatti. Since his book is entirely sincere, he does not surrender to expediency or to the claims of clericalism or anticlericalism, he goes straight ahead, blaming all intolerance, as he justly discerns it, whether human or divine.

The conclusion of this book is encouraging: Peace to men, or better, to the souls that seek religious truth or scientific truth in the fulness of their freedom, guaranteed by law, consecrated by custom, transformed into a moral precept which calls upon all the dissidents to love one another and to respect one another among the necessary and inevitable differences of faith and of philosophy.

A work like this of Luzzatti's refreshes and revives the mind, and besides being a good book is something more than that—a good deed.

It will not seem, I hope, to be digressing too far from my theme if I take the liberty of remarking Luzzatti's resemblance, political, scientific, and moral to a great Englishman, Gladstone, whom Luzzatti himself loved, and whose eulogy at the Institute of France Luzzatti himself penned.

Luzzatti and the author of these lines were presented to Gladstone in Venice by Marco Minghetti, and it was one of those meetings that one never forgets. Gladstone had dedicated his life to the finances of Great Britain, to the social advance of the working classes; and although many times a minister and prime minister he never gave up his technical religious studies, like his researches on the origins of the churches, nor his constitutional studies, like the reforms of the Irish church, with which he had begun his public life. For this man, who wrote his first pamphlet on behalf of the constitutional privileges of the Anglican church, was to end, to his glory and that of his country, by proposing and obtaining, in 1869, the abolition of the state church in Ireland, the symbol of the domination of the victors over the vanquished. Gladstone took part in all the discussions between his country and the Vatican, and he told Minghetti, Luzzatti, and the writer that in those researches he felt his mind leap up and take on the temper of the ideal, and grow refreshed somewhat in the aridity of political life. If instead of in Italy, Luzzatti had been born in England, which puts its stamp on men by the loftiness of the position from which they look out, he would have been worthy of equal comparison, for, in religious and constitutional inquiries, if his mind is as vigorous and quick in the form and the matter as Gladstone's, it is perhaps more profound in analysis and synthesis. One feels in his method of considering a faith almost the voices of justice and equity themselves, which seek in every creed even the tiniest ray of charity which will save it. And what he resolutely abhors is that clerical vulgarity which in every age, but especially to-day, would make us forget God in the disgust which it produces in honest minds. But he abhors equally the Jacobin vulgarity, which after the patent adverse demonstrations of science continues to deify matter, and to attempt to prove that the world is the product of chance. With these errors they think to overcome the clericalist, without realizing that in this fashion the clericalists and the Jacobins are alike in their diverse forms of ignorance and intransigeance. Luzzatti's book raises the reader into a more inspiring atmosphere, and I have wanted to write about it in this journal, where the cult of science has always been united with that of form, because truth never seems so effective as when it shines with beauty. In Luzzatti's volume this magic of form and eloquence seduces and enchants, and in this respect also he can be likened to Gladstone, who was a great statesman and also one of the most charming writers of his country.

P. Molmenti

To the above article, reprinted and commented on, as we have said, by a great many journals of every stamp, the *Osservatore Romano* of May 26, 1909, replied thus:

A BOOK BY LUZZATTI AND AN ARTICLE BY MOLMENTI

THE Hon. Luigi Luzzatti has studied, and studies assiduously and profoundly, not only economic problems, in which he takes the undisputed palm, but also religious problems. In these also he wishes to be objective and serene, but as for serenity, he is lacking in it, since he looks upon objectivity in the sense of truth, and gropes among appearances of reality, and suffers from that misfortune common to many of being deceived by that appearance.

For example, the *Libertà di coscienca e di scienza,* on which subject he has recently published a book, contains the supposed constitutional and historical bases of the principle of the separation of church and state—a fixed idea of Luzzatti's. Those principles cannot be applied to the Catholic church, for the simple reason that, since that church is, also on the basis of historical documents not unknown to the distinguished man, in possession of the truth, it is above and outside of constitutional machinery and of those historical bases which form the traditions of unbelieving peoples, like the Japanese, or of peoples on which the spirit of the Protestant reformation took hold.

We do not intend to examine Luzzatti's book, but let us briefly remark only two mistakes, that is, that separation signifies substantially the incompetence of the state in matters of faith, and that faith is the care and concern of the individual conscience.

Since separation is a doctrine which it is sought to uphold in theory and practice, as a legitimate theory and practice among Catholic governments, we reply that no one has ever pretended, and the church would be the last to pretend, that the state is competent in matters of faith. The church requires only that the state should not presume to separate itself from it, adducing its *confessionality*, which reduces it to unadulterated atheism, but that it should not embarrass ecclesiastical legislation, and that it should promote, by its ethical function, the inviolability of the Catholic faith and moral system, living in friendly alliance with it.

Separation, on the contrary, signifies substantially, in Catholic countries, the illegitimate intramission of the state into the powers of the church, even to taking upon itself the reorganization of the hierarchy and the rules for the exercise of the cult, and only *per accidens* can and does the contrary occur, and in circumstances of a transitory part, which, if they permit the Catholic church to tolerate separation in fact, do not allow it to approve it in principle, the separatist principle being inacceptable and intolerable, opposed to axioms both divine and natural.

The idea that faith, that is religion, should be the care and concern of the individual conscience, is the legitimate consequence of the incorrect idea which Luzzatti has of the natural and positive ethical function of the Catholic state in relation to the church; which incorrect notion leads him to isolate the society of the faithful from God and from the laws of the church, that is to set them apart, leaving the individual to believe in himself and to worship according to subjective rules and discipline. As is evident, we have here complete modernism.

And Molmenti dedicates a eulogistic article to Luzzatti's book, and judges it to be a work which refreshes and revives the mind, a good deed.

Frankly, if we are disposed to be somewhat indulgent toward Luzzatti for his juridical mistakes in connection with the natural and positive mission of the Catholic church, we are not similarly disposed toward Molmenti, who, enchanted perhaps, as he himself admits, by Luzzatti's style, has permitted himself to be enchained and seduced, in a manner unbecoming a true Catholic, in a matter concerning which, if not competent, he should at least have appeared more reasonably obsequious.

The *Giornale d' Italia* of May 28, 1909, published

SENATOR MOLMENTI'S ANSWER TO THE OSSERVATORE ROMANO

From an article of ours in the *Marzocco* of Florence, on Luzzatti's book on *Libertà di coscienca e di scienza*, the *Osservatore Romano* with solemn suavity draws arguments to refute the fundamental principle of Luzzatti's work, to which we had, of course, expressed complete adherence. Luzzatti has been our master for forty years, and in these religious and philosophical matters, too, he teaches us, with an apostolic fervor which grows more vigorous with age, that scientists may err but that science is infallible; that the religious cults may be mistaken or idolatrous but the sense of the divine is eternal and inextinguishable; that the state may not set limits either to science or to faith, and that its duty is to give constitutional guarantees to both one and the other, without impeding their destined course. These two infinite freedoms of science and faith alone verify each other, assist each other, illuminate each other in turn.

From this there rises another and a lofty constitutional duty of the state, and that is to acknowledge the obligation of protecting, by public and by civil law, the divine idea, which is ordained in a cult, before which the state has no other task than to intervene when, from time to time, under the pretext of faith, its laws are violated. Thus it happened in the United States of America, which does not recognize any creed nor support any, that the government proceeded against the Mormons, not because their leaders thought themselves in relation with the divine spirit but because of the practice of polygamy, a disturber of the unity of the family, the foundation of human society.

If the state does not declare itself incompetent in matters of faith, it must decide in favor of one cult rather than another, recognize one dominant cult as against other tolerated cults, or, as was the case in France before the law of 1905, it must not permit any cults except those which are recognized, aiding all those with pantheistic impartiality.

So long as the cults were joined to the state the affairs of both the former and the latter could obscure the necessity of separation; but when the state fell into the hands of unbelievers, the believers themselves, as is clearly seen in Luzzatti's book, asked for separation, in order to preserve the integrity of their faith.

Because of all this, it was not without surprise that we read, in the *Osservatore Romano* of May 26, an article which, so far as its tone is concerned, is courteous, a rare thing in those who speak in the name of God, albeit God is the highest love. In this article, while the incompetence of the state in religious matters is affirmed, this, substantially, is added: that since the Catholic church represents the absolute truth of faith the state has no other duty than to follow it and second it in all things.

And this they dare to say in these times, appealing to our Catholic conscience, which according to the *Osservatore* ought, more than Luzzatti's, be rationally obsequious to the church.

Let the reader take note that in his magnificent book Luzzatti does not uphold the doctrine affirmed so many times before the Senate and the Chamber by Minister Orlando, that of a lay state, deliberately unaware of any religious principle. Luzzatti, who is, of all our statesmen, the most religious spirit, declares only that the state is incompetent, and that its constitutional duty is to guarantee freedom of faith and of science.

If the writer in the *Osservatore Romano* had read the book which he judges, he would have observed Luzzatti's moral and technical repugnance toward all that legislation for the separation of church and state which slides from the principle of incompetence into that of intolerance.

This had happened, for instance, in the recent French law of 1905, to which Luzzatti prefers, with a fine show of reason, the English legislation in India, that of Japan, the classic and splendid laws of religious equity of the United States of America, and the recent Genevan law, which last, like those of the United States and Japan, has been received with enthusiasm by Catholics and by the church, which, being no longer able to lord it over the other cults as a dominator, has in those countries accepted, as Luzzatti would wish for it, a liberty befitting its intrinsic character.

So lucid and just an analyst ought to displease the Jacobins more than the Catholics, and hence arises our wonder at the strangeness of the observations of the *Osservatore*, which, although expressing its reservations, delivered a much calmer and much loftier judgment when Professor Luzzatti began his studies on religious freedom from the chair of the University of Rome.[2]

How can the church fail to see that only freedom can save it, if it has not still the hope, which seems impossible, of fusing the two rules and dominating over the state itself? What can it hope for from the modern state, governed by philosophers, by believers or unbelievers, who have neither occasion nor power to make use of their faith in public institutions, what can it hope for better than a sure and clear freedom, which is loyally desired by Luzzatti, a modern man, impartial and serene, stripped of all the prejudices of Jacobin radicalism, which gives him the right to reason with pride even about ignorant clericalism?

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[2] The *Osservatore Romano* of December 21, 1906, wrote as follows, in commenting on Luzzatti's introductory lecture of the same month: "If we concern ourselves here with the lectures of Professor Luzzatti at the University, we do so for a most worthy aim, which, to many near-sighted ones, may not seem so. With the vast treatment of the religious problem at the Roman Athenæum the anticlerical and masonic prejudice of indifference on the part of the individuals has been repulsed, and those who share or seem to share such prejudice have been set almost in ridicule. The professor's thesis does away with the indifference of hate to religion, and becomes thereby of great moment to it.

"Luzzatti is a liberal thinker too, but he believes he can be so, not by attacking every belief or form of belief in the supernatural but by calling on science for the light of truth, and at the same time not assuming the antecedent part of rejecting as myth every idea contained in revelation. He makes use of the history of religions, follows the course of the generations in the realm of the history of religion itself, and finds that the religious function accompanies the peoples throughout their evolution, not as a prejudice but as a necessity.

"Professor Luzzatti, in short, is one who recognizes the historical fact of religion and sets himself to make it understood, overcoming the band of iron cast around that fact by impiety, by ignorance, by the spite of antireligious factions.

"Is this a gain? Indeed it is, and those who do not see it, we say, are the near-sighted, who, even if they could, would be scandalized by our deference toward Luzzatti's lectures. He tends to confound the crowd of parasites of politics and freedom, the monopolizers of the universal conscience, who destroy religion in the name of science. Religion and science, Luzzatti maintains, are two different paths, and he is not of the *a priori* opinion that science should dispute the way with religion, as the Sanhedrin of free thought arrogantly maintained before the assembly in Rome of the Homonimous Congress in the fall of 1905, when there were those who sought to overcome the prejudice of the absolutism of science before and above faith.

"Is this a small gain? When the realm of faith is racked by tyrannical intellectual impositions, overcome by impious hordes shaking the banner of *a priori* negations, and man is reduced to bowing to all the tyrannies of another man, if Luzzatti rises in the Royal Athenæum of Rome to impose, in the very name of free thought and of science, the precise duty of observing, of comparing, of reflecting, upon the religious problem and the function of religion, before braying dishonestly and jackassically—the word is crude, but it is the one that is wanted—oh! that is constantly a gain, and one not to be lost, one that should be welcomed. . . ."

> The attitude of the *Osservatore Romano*, which acknowledges the incompetence of the state only to subordinate it in religious matters to the single competence of the church, leads, as a necessary consequence, further than Luzzatti's liberal doctrine. From the incompetent state, from the faith which is the care and concern of the individual conscience, which the *Osservatore* considers an error, and which is, rather, a guarantee for all, one passes to the lay state of Orlando, to the persecutor state of France.
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> One must be blind, living in our times, not to understand that the sole salvation of faith is in constitutional freedom; outside of that there is only the overpowering of the state by the church, an impossible thing, over and done with even in the republics of Central and South America, or, a more probable thing, the overpowering of the church by the state.
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> Let the *Osservatore Romano* believe us, since, without modernisms, we have not abandoned the hereditary faith, when we say that when, although dissenting, it admired and respected Luzzatti's lectures, it seemed to us a better defender of the church than to-day, when it accuses him of errors which exist in the mind of whoever still believes the modern state capable of lending its secular arm to the triumph of theocracy.
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> The *Osservatore*, which, when we introduced prayer into the schools of Venice in the name of a high idealism and never in the service of the wretchedness of clerical triumphs, found us thoroughly competent in religious matters, to-day accuses us of falling into errors of judgment, through letting ourselves be drawn by the seductive eloquence of Luzzatti.
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> No, no, this is a question of far different and more lofty things, and when we see this man who, following the formula of Plato, is radiant with the beauty of style, in order to give greater radiance to truth, then even censure in the name of the church seem to us far distant from God.
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> P. MOLMENTI

The *Osservatore Romano* of May 29, 1909, in an article entitled "Senator Molmenti and the *Osservatore Romano*," resumed the argument by affirming that in matters of religion it is preferable to have as masters Paul, Augustine, Thomas Aquinas and such, rather than Luigi Luzzatti, and continued:

> Among the constitutional duties of the state, Molmenti, under the guidance of his master, admits that it should intervene when, under the pretext of faith, the civil laws are violated. So then, it is to be left to the lay powers to censure the action of the Catholic religion, of the church, limiting it, restricting it, whenever they deem the very action derived from the faith to be in opposition to the civil laws.

This is precisely what has been done in France, to speak of nothing but the present. The state has seen fit to intervene, even to the point of persecution, against the church, deeming that it disturbed and even destroyed the foundation stones of social coexistence.

The mild soul of Luzzatti and his cult of moderation prompts him to reprove formally the violence of Jacobinism, but when the state is granted the right of intervening to judge of the disturbance of the conscience and of civil coexistence as the work of the Catholic religion, how is the defensive law of the state to be bridled so that it does not slip into persecution?

And further, between church and state, who is to be the judge as to what constitutes a positive violation? The state. And does this seem to be admissible to Molmenti, or rather, is it not to give to lay learners the right to teach the supreme Teacher to the point where it is permitted to legislate in matters of faith, of morals, of discipline, of Christian social action?

The difficulties encountered at the present time, too, here and there in the Catholic countries and in Italy, which being an indifferent or rather atheistic state protects and assists all creeds, does not settle the matter, does not insist upon the necessity of separation, but insists rather on invoking the principle of the distinction and alliance of the state and the church, according to basic juridical principles of the mission of the Christian state and the church, basic juridical principles learned by this writer at the school of Thomas Aquinas and of Augustine and Paul, and from all the other apologists of the faith, rather than from Luzzatti.

Luzzatti does not deny the divine, he does not want persecutions against the believers in one religion or another, but from this to the acceptance of eclecticism, both in faith and in worship, we are very distant, infinitely distant, as far distant as truth from error.

Tolerance toward erring men always, but declared and lively intolerance toward error! Here is the ruling attitude of the Catholic, according to the school of the gospel and the church.

Like the notion of the infallibility of science, it is a mistake on Molmenti's part to suppose that we are in error when we deem that in matters of faith the state must be subordinate to the church.

Indeed if the state, as Professor Luzzatti says, is substantially incompetent in religious matters, to make no mistake, to what tribunal ought such matters be submitted, if not to the church?

But this would cause reactions among the constitutionalists and those less ready to submit to the authority of the church.

And this difficulty, would it be such a thing as would warrant the church in revolutionizing the juridical law of its existence and persistence? But this is just what Jacobinism wanted in France. And how did the church governed by Pius IX reply? In the same manner that the Apostles replied and that the Popes have replied

> through the centuries to the disturbers of the juridical existence and persistence of the church.

The *Osservatore* ended by accusing of error and incorrectness the basic principles of Luzzatti and Molmenti. The latter had the following letter published in the *Giornale d' Italia* of June 3, 1909:

TO THE "OSSERVATORE ROMANO"

> The May 29 number of the *Osservatore Romano*, which continues the controversy with me over Luigi Luzzatti's book, reached me only to-day, in this seclusion of mine. I cannot leave the *Osservatore* without a brief reply, especially since its argument is a model of courtesy, a model too seldom imitated by the clerical press, which usually uses the base and violent language of intolerance.
>
> Besides, the relations between church and state are the subject of the day, a live subject, lofty and urgent.
>
> The observations of the *Osservatore* are as polite in form as they are strange in substance. Certainly that declaration must seem strange to anyone, according to which the *Osservatore* accepts religious freedom so long as the church has not the power to suppress it by violence.
>
> A Catholic ecclesiastic would not dare to say that in the United States of America.
>
> How much more beautiful, how much more charged with the religious spirit is Luzzatti's book, which shows how the separation of church and state has caused the Catholic church to flourish anew in the United States, where, fighting in the open field of the lively rivalry of creeds, it is refined, it is improved, and it conquers.
>
> Between the *Osservatore* and myself there is a disagreement. For me a church is, according to Luzzatti's happy phrase, a mutuality of souls bound together by faith, that is, by a common conviction. Why does the writer in the *Osservatore* wish to sully this definition, adding force, and defining the church as a mutuality of souls bound together by faith and by force?
>
> It is understood that if a member of a church denies that church it has the right of expulsion, which has only a moral effect, as in the case of Murri. In other times Murri, expelled from the church, would have gone to jail . . . or to the stake.
>
> That faith is the concern of the individual conscience, signifies really the concept of a church in which all the religious ideals are both purified and strengthened, but in which there is also the right of leaving the church when faith is lost, with the right on the church's part to cast out the heretic.
>
> This is the wholesome effect of freedom, and without it faith is meaningless and is abased.
>
> But since the *Osservatore Romano* has replied with such serenity,

> I will go bail for it that, if it will take the pains to read Luzzatti's book through, as I have, it will understand my reasons for being honored in having him for master, not excluding on that account the reading of Paul, of Augustine, and of St. Thomas, but rounding out that reading by the comments of the author of the book that has given rise to this courteous controversy. And I am done.
>
> MONIGA DEL GARDA, May 31, 1909.
>
> POMPEO MOLMENTI

The *Osservatore Romano* (June 4, 1909) wished to have the last word, and declaring that it differed profoundly with Senator Molmenti, one of the many who are saturated with religious sentimentalism, asserted that the separation of church and state could not be accepted for Catholics:

> The acceptance, as a doctrine, of separation, is inadmissible on the part of the church because of the nature of the two perfect societies; nor is this force, as the law of the indissolubility of matrimony is not force, since it is, by positive law, indissoluble; just as that law of the state which condemns and punishes criminals is not force.
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> If Molmenti had had Paul and Augustine and Thomas Aquinas as his principal masters, perhaps he would readily perceive that a mutuality of souls bound together by faith, that is by common conviction, is not properly the church.
>
> However much this definition may please Luzzatti, it is incomplete, it is imperfect, and it is modernistic. No account is taken here, in fact, of the visible Head, who is divinely chosen, and whose authority in matters of faith must be unappealable.
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> Freedom to leave the church does not imply freedom not subject to control, just as the freedom, or rather the abuse of freedom, by the criminal does not free him from the control of the Penal Code.
>
> With Molmenti and his fellow sentimentalists we are not in agreement, even in the philosophic concept of liberty.
>
> It seems to us therefore that we should put an end to the courteous controversy.

Fortunately, the controversy, fervent and courteous, was not closed.

Luzzatti's book continued to be much read, much appreciated, and nobly discussed. A distinguished critic, Benedetto Croce, though praising the elevated tone of Luzzatti's work, resolutely took up his position between the disagreeing critics.

Croce, speaking of the freedom of conscience and science, concerned himself with the philosophic aspects of Luzzatti's treatment, criticizing his preferences in history, and knows neither good nor guilty, does not permit the condemnation of the persecutors nor the exaltation of the persecuted. Here is Croce's article which was first published in the *Giornale d' Italia* (July 5, 1909), and then in the *Critica* of Naples:

Croce on Freedom of Conscience and Science and Signor Luzzatti

Luzzatti sets the matter forth in this manner There is in the world of truths one most radiant truth: the principle of the freedom of science and of conscience. This principle has for long centuries remained hidden, or has been dimmed, in the human mind: hence religious persecutions. Hidden or dimmed even in great spirits, beginning with Plato; who, as is known, wished to put the heterodox into prison, and inflict a philosophical lecture upon them every day, in order to convert them: "The disciple of a martyr of freedom of conscience, the disciple of Socrates, could have been, and should have been, more prudent!" (p. 78.)

Those very ones who had been persecuted became, in their turn, persecutors: "Luther, the triumphant leader of Lutheranism, sometimes forgot the sublime counsel of the persecuted doctor" (p. 218). "He was implacable against Mohammedanism, Judaism, and the new sects, accusing them of disturbing the peace, and urging on the princes to punish them" (p. 219). John Huss, if he had won, would scarcely have forgiven: "with great grief one beholds flashes of sacred anger in his confidences to the faithful of Prague and to the Bohemian princes" (p. 218). "Calvin, a gloomy spirit, was plainly the Saint Dominic of the Reformation" (p. 219).

Even when the truth, so simple and evident, of the freedom of science and conscience, was revealed and determinedly taught, it did not receive popular support. "Throughout Europe there are very few states where the religious sciences may rest and the law be inspired by the genius of freedom" (p. 299); "Belgium itself is not altogether satisfactory in this respect" (p. 250).

And yet, the religious persecutions were all sadly expiated, or, as sins to be expiated, they weighed upon the people who had become guilty. From the "inexpiable crime" of the night of St. Bartholomew, "France feels the consequence still" (p. 313). The Spaniards, who "drove into exile the Moors and the Jews who had given them an example of irrigation and of systematic culture," "with a base moral abdication surrendered themselves to the power of the kings and the priests" (p. 328); and they expiated finally "with the loss of the colonies, the offenses of Philip II and the Duke of Alva, the crime of intolerance and of the Inquisition" (p. 281).

But as a consolation amid so much blindness and perversion we are helped by the memory of certain most noble spirits, who in hostile times proclaimed that principle of liberty: "beside the black persecutors there shine the affirmers, the martyrs, the vindicators of freedom of conscience" (p. 272); such as, for example, the philosopher Themistius in the fourth century, St. Bernard in the Middle Ages, Spinoza in the seventeenth century, Stuart Mill in the last century. Our memory recalls the great revolutions inspired by tolerance, like the Constantinian edict of 313 A.D., the application of religious freedom made in 1641 in Rhode Island through the work of Roger Williams. Above all, the mind rejoices in the spectacle of Asia, which, superior in this respect (and as much in ancient as in modern times) to Europe, conceived and applied religious freedom especially in Buddhism and the famous edicts of King Asoka.

It is a slender rank, this, of men and events; but such as to be kept always present in the grateful mind, moved and hopeful of a future in which peace will reign in men's hearts, and their minds will learn to worship their own God while respecting, at the same time, the God of their neighbor (pp. 230f.).

Now, if the distinguished writer will permit us to tell him so, he has not stated the problem correctly. What he calls religious persecutions (as he is certainly not unaware and rather, in certain points in his book, shows himself to know quite well; cf. pp. 221, 316n.) is a mixture of two quite different kinds of things. Political and social strifes, in the first place, between races, peoples, states, or classes, in which the religious forms under dispute had, perhaps, no more importance than that of the tricolor for Italy or the black and yellow for Austria. In the second place, conflicts of doctrinal affirmations, to which recourse was had, in order to win, because of the conviction that those who refused to acknowledge the truth were sustained in their obstinacy by passion, interest, or the diabolic spirit. Thus, just as one does too great honor to the Constantinian Edict by considering it an acknowledgment of a doctrinal truth, so one does too great wrong to the poor Spaniards by treating them as malefactors or imbeciles—to the Spaniards, who were not in a happy national situation, having among them an unassimilable element, the Moriscos, ready to conspire even with Henry IV against the country in which they lived as covert enemies. Despite the exaggerations in which, perhaps, it has indulged itself, modern history has been well advised in showing that in many religious movements there has been, actually, a political and economic movement.

It is evident that the invoked principle of tolerance cannot be applied in the case of political conflicts under a religious banner: to pretend to apply it would be ingenuous and worse, because life is a struggle, and the struggle should be accepted and kept manfully before one's eyes.

Shall we lament the massacre of St. Bartholomew, or the *auto-da-fé* of the Inquisition, or the driving out of the Jews and the Moriscos, or the execution of Servetus? Indeed we do lament them; but we are aware, at the same time, that in doing so we resort to poetry, not history. Those things have happened and no one can change them, as no one can say what would have happened if they had not taken place; the expiations which France and Spain would have made, or should have made, on the grounds of *delicta maiorum*, is a phase of vindictive Judaism better left to the preachers, without any significance, even moral.

I should even say immoral, for from those past conflicts our present world was born, which would now raise itself before its progenitor to insult it, or even to preach to it. "Those faces I myself have seen," the ancient world could reply to the modern world, with the good sense of Don Abbondio before Cardinal Federigo.

But in the second case too, that is, in the case of the doctrinal conflicts which have recourse to practical expedients, the principle is inapplicable; because to apply it, it would be necessary first to refute the theory of the voluntary character of doctrinal affirmations. I shall not repeat what I have elsewhere developed in support of that theory, and in demonstration of the fact that all of us, at every moment, exert pressure upon other wills, in order to induce them to act in accordance with what seems to be the truth. All, including Luzzatti himself—if only with the many exclamation points and question marks which mark his style and which are like so many ear pullings, struck upon the mind and showered upon the hearts of his listeners and readers. And if Luzzatti (as is probable) is angry with me for these observations which I am making about his book, what will his anger be but a pressure which his will, thinking itself in possession of the truth, seeks to exert upon mine, which abhors the truth because of the spirit of hypercriticalness or of contrariness with which it is afflicted (diabolic spirit)?

Let us suppose the truth of what I have read in various journals of the vogue of Buddhism among the rich and idle in England; or of what a friend of mine, a poet and Buddhist, has written in a great Italian journal to recommend such a religion—that is, that it comports well with "the meretricious modern mind." Would I not, in fighting against such adversaries, Buddhism itself, by showing its onesidedness and hence its unsoundness, strike also at the moral roots of the favor which it has met with? It seems to me inevitable.

Certainly I shall not, like Luther, exhort the rulers to punish the new sect; and I shall not want, like Calvin, to burn its adepts; because in these times these would be wicked things to do. But I should provoke laughter concerning the new believers; and (to make use of a peculiar phrase) what weapon is more terrible than ridicule? There are other weapons besides those of iron and steel.

In short, doctrinal conflicts do not consist and cannot consist in those calm and indifferent dialogues that superficial persons imagine; but they too are vital conflicts, and must be examined like any other fact in history. Which was right, Diocletian or the Christians? Innocent III or the Albigenses? Gustavus Adolphus or Wallenstein? The Catholics or the Protestants? Bruno or his assassins? Neither the ones nor the others, and both the ones and the others together, if it be true that the subsequent history of thought rejects and includes them all. And every one strove as he was able and as he ought. Clericalism and anticlericalism (according to Luzzatti, p. 3) "are the psychological product of the same moral deformity: intolerance." Alas, at that rate all history would be the product of "moral deformity," because all history is intolerant!

What, then, is the principle of religious freedom that arouses such enthusiasm in Luzzatti? Just the opposite of a universal and absolute truth: it is a practical principle which can be of the utmost value to our times, when it is referred to special legislative provisions and single acts. To erect it into a universal fact is fruitless; it should be translated into particular facts.

For example (and to take a slight fact), a monument is erected to Servetus in Geneva. Very well; Luzzatti, who dedicates to that event one of the most heated passages in his book, is of course among the subscribers to the monument, and I find myself in his company, because at that time I subscribed too and paid my share. Is this act to be called homage to religious freedom? To me it is simply homage to a hero of history, Michael Servetus, and at the same time the expression of the sentiment of our times which abhors proceedings which have come to seem stupid and brutal; but if one wants to call it homage to the principle of religious freedom I shall not stay to argue about the words. It is enough for me that the thing is worthy.

But since that tolerance of which Luzzatti speaks is a practical and contingent formula, and not at all a universal principle, it can be of no value in explaining and judging history, which has need of criteria that may be of value. Thinking it useful as a criterion of valuation is Luzzatti's mistake; and this has prevented his studies from being really (as the title announces) historical (p. 1).

Viewed with the eye of history even the massacres and tortures, which now make us shudder, diminish when they take on the tone of the general dispositions and the general customs of the times; anyone who has seen, for example, the engravings of the sixteenth and seventeenth centuries which depict the punishments then usual in the armies, will not wonder at those visited upon the heretics. And above all there is revealed to us, in the objective consideration of history, the true mind of the individuals and the parties in conflict, and the real consequences to human civilization that arose therefrom.

And yet, if Luzzatti has conceived his book as he has conceived it; if for the last twenty or thirty years he has always dreamed of "an authoritative book in which the origins and the developments of freedom of conscience should be depicted," and which should offer "an anthology which should collect and set forth the opinions of those who first sensed and fought for the supreme inviolability of the human mind" (p. 209); if he, still, without uttering "any word of vengeance against the descendants of the persecutors," strives to promote "a cult more sincere and ardent, consecrated to the precursors of religious freedom" (p. 3); all this must be a sufficient reason for it. He himself is a descendant of a persecuted race; and resents, therefore, those conflicts of the past, as something living and grievous.

There comes to my mind an analogous case: the translation which Solomon Reinach made of *A History of the Spanish Inquisition* by Henry Charles Lea, at the time of the Dreyfus affair, "*à cette époque tragique pour les consciences,*" putting it before the French public as "*la seule flétrissure qui convienne aux crimes du fanatisme.*" It is a state of mind which I understand and respect; but I do not know if it fits the conditions of our times; and in any case it has led Luzzatti into an error of historical vision (a new proof, if one were needed, of the passional and practical origin of error). Lea, who is a serious historian, was worried by the sentimentalist disturbance in which his translator, Reinach, found himself, and urged him: "*Traduisez comme vous l'entendrez, mais, je vous en prie, ne vous départissez pas du ton impartial que je me suis imposé*" (p. 2).

Among the writings included in the book, Luzzatti boasts of having had faith since 1876 (p. 319) in "scientific idealism." And it is a fact that he has always opposed materialism and determinism, and has always stood for freedom, the moral values, religiosity. All this has remained quite vague in his mind, so that it is impossible to determine upon what grounds he bases freedom, what religion he professes, or what his philosophical system is. He has not elaborated his ideas philosophically, but rather has asserted them, awaiting trustfully the thought which will one day justify them: "One may hope that, when the time we shall not see is ripe, there will arise a wonderful master of the natural and philosophic sciences, capable of gathering into a luminous synthesis the spiritual and natural world" (p. 373). But it would be unjust to deny him the merit of having given proof of sound instinct and good tendencies in times of crass naturalism, raging in the economic and political fields no less than in the literary and philosophic.

B. CROCE

Luzzatti himself, at the Third Congress of the Italian Philosophical Society (Rome, October 27-31, 1909), answered:

MARTYRS IN THE HISTORY OF HUMAN THOUGHT

A distinguished writer who disagrees with me, Benedetto Croce (the fact that he attacks me does not oblige me to belittle him), in the face of the immense band of martyrs whom I exalt and glorify as preparers of civilization, asks: "Who was right, Diocletian or the Christians? Innocent III or the Albigenses? Gustavus Adolphus or

Wallenstein? The Catholics or the Protestants? Bruno or his assassins? Neither the ones nor the others, and both the ones and the others together, if it be true that the history of thought rejects and includes them all. . . ."

This doctrine, or rather this method of interpreting history, confuses in the same justification Melito and Socrates, Judas and Jesus, Calvin and Michael Servetus, the martyrs and their persecutors. Hence it is necessary to examine thoroughly its philosophical value.

The sense of the divine is natural to man; it is now beyond any dispute among historical scholars that the different faiths are the product, not, as was thought by so many superficial writers at the end of the eighteenth century, of fraud and error, but the effect of organic evolution. The origins of all the great religions are full of innocent purity, and do not wish to be confused with the swindlers who would adulterate them. Hence, especially in their dawn when they are tinged with the blood of the martyrs, they represent one of the most heroic and transcendental impulses of the souls enamored of the ideal. To die for one's God, glorifying him in the supreme grief and the supreme joy of sacrifice; to die for one's philosophy, to die for one's country or for the triumph of science; all these sublime and tragic actions attest the immeasurable greatness of humanity. Which of these deaths is the most sublime, this is not the place to inquire. I am concerned in this moment with a work intended to note "how the martyrs of the different religions die, according to the essential spirit of those religions."

The theme is somewhat new, and I may be permitted here only to sketch a few principle lines in Buddhism, in Christianity, and in Judaism. The heroic annihilation, the "auto-martyrdom," as I call it, or the sacrifice of one's own existence for the good of other beings, is the basic theme of the *Jataka*, or stories of the rebirths of Buddha, in which, under various forms, he was consumed for the benefit of the suffering. Besides this prodigality of sacrifice Buddhism knows, too, passive martyrdom, simple, serene, and, I should say, somewhat joyful.

And here I read an ancient discourse of the *Wagghimanikâvo,* containing an original and powerful dialogue between Buddha and a monk who was called to teach in the land of the "western Suni":

" 'A savage people, O Punno, are the western Suni, a barbarous people, O Punno, are the western Suni. If the western Suni, O Punno, insult and abuse thee, what wilt thou think then, O Punno?'

" 'If the western Suni, O Lord, insult and abuse me, then I shall think thus: How gracious then are these western Suni, that they do not hit me with fists, or strike me with stones, or beat me with sticks! Thus shall I think then, O Sublime One, thus shall I think then, O Blessed One.'

" 'But if, O Punno, the western Suni hit thee with fists or strike thee with stones, or beat thee with sticks, what wilt thou think then, O Punno?'

" 'If, O Lord, the western Suni hit me with fists, or strike me with stones, or beat me with sticks, then shall I think thus: How gracious then are these western Suni, that they do not give me blows with a sword! Thus shall I think then, O Sublime One, thus shall I think then, O Blessed One.'

" 'But if, O Punno, the western Suni kill thee with blows of the sword, what wilt thou think then, O Punno?'

" 'If, O Lord, the western Suni kill me with sword blows, then shall I think thus: There are disciples of the Master who spurn and despise the body and life, who seek and take up mortal weapons; now I have found this mortal weapon without seeking it. Thus shall I think then, O Sublime One, thus shall I think then, O Blessed One.'

" 'It is well so, it is well so, O Punno, thou art well able, O Punno, gifted with sweet patience, to dwell in the land of the western Suni. Now do as seems right to thee, O Punno.' "

The poem of martyrdom in the Christian religion exalts it to the most ideal heights; nothing is more grand, for beauty of heroism and chastity, than the Christian virgin in the arena, who composes her robe, more concerned with modesty than with martyrdom. But her faith gave her the certainty of arising beside the Redeemer! That certainty was lacking to the Jewish martyr of the Middle Ages, who, slain by the crusaders—who before reaching the promised land wrought their murder upon him—died darkly solitary, without hope of increase on earth or recompense in heaven!

The exploration of these "states of mind" of the religious martyrs will make it possible to penetrate further and further into these wonderful spiritual mysteries. And since they represent their loftiest aspirations, from them alone we learn that a philosophy of history cannot be correct when it asks which was right, Judas or Jesus, Diocletian or the Christians.

The subsequent history of thought, as Croce supposes, may have rejected or included them all. They may have been both right and wrong, considered from the distance of centuries. But history is ordinarily a great reconciler, that draws the best elements from the most contrary doctrines, consecrates and perpetuates them. What more different things than pagan thought and Christian thought? Yet our civilization is the logical outgrowth of Hellenism and Christianity, which the labor of centuries has fused into one model, grafting the roses of Hellas on the thorns of Galilee. However, through the vicissitudes of time a "categorical imperative" warns us that those who die for a religion, for a philosophy, for their country, or for humanity, leave a luminous example, which does not permit us to confuse the victims and the slayers. It may be, and it has even happened oftentimes, that the persecutor obeys the spirit of his time; the vice of every inquisition is more of the mind than of the heart, when, a most difficult thing, it is free from any worldly cupidity. The Athenians, who condemned Socrates, were the bravest and noblest minds of the ancient world; the Jews, who condemned Jesus, were the custodians of the monotheistic, anti-idolatrous idea, and Marcus Aurelius, who persecuted the Christians, was the purest mind of the Roman Empire.

From these considerations we learn that those who, being in power, set about, even for worthy ends, to root out heresy, should ask themselves if they are superior to the Greeks of Hellas, to the Jews of Jerusalem, and to Marcus Aurelius, who put to death the saint of philosophy, the saint of the divine idea, the most glorious martyrs, who were the first Christians. But if the persecutors may be absolved, they ought not be confused with the persecuted, and that philosophy is fallacious which joins in the same benevolence of judgment, as a product of the same historic necessity, Socrates and his accusers, Calvin and Michael Servetus.

And that is not all.

I have tried to prove that in every great moment of history there are the announcers of the new dispensation, the precursors of religious freedom and of the freedom of philosophy. Often their voice is choked with blood, but if the study of the spirit and the necessities of historical evolution tend to absolve the persecutors, all the more shines the beauty of those great souls who, in the mediæval night, sensed the freedom of faith and of science, two freedoms which are bound together. We absolve the slayers, but we exalt all the more the precursors and the martyrs; otherwise this Hegelian indifference in history would accord wonderfully with the doctrine of the persecutors and the practice of persecution.

Let us ever admit that the rulers wished to punish, besides and more than heresy, those doctrines that were thought antisocial; let us ever admit that the severity of the punishment was bound up with the cruelty of the penal law of those times . . . but shall we call those dreamers and cowards who, in the midst of the horrors of the religious massacres, raised their voices to preach tolerance?

Take the example of a great saint, St. Augustine. He had been a Manichean before becoming one of the glories of the Catholic church. In the first phase of his apostolate he takes up, not the defense of the doctrines, which he acknowledged were abominable, but the defense of the inviolability of their erring thought. And he says, "Those who do not know with what toil one finds the truth may be harsh with you. As for me, who have been for a long time in error, who have spread it as much as I could, who have defended it obstinately, I am not able to be harsh with you. I must bear with you, as I was borne with when I blindly followed your errors."

But then St. Augustine repents of so much religious justice, and to those who remind him of his example and of the saying of St. Hilary "that the true church was that which endured the persecutions, and not that which persecuted," the great saint grew smaller, replying with the example of Sarah who had persecuted Hagar. And he added: "*Melius est* (*quis dubitaverit?*) *ad Deum colendum doctrina homines duci, quam pœnæ timore vel dolore compelli. . . . Sed multis proficit plus timore vel dolore cogi ut postea possent doceri. Terrori utili doctrina salutaris adjungitur.*"

It is true of him, however, that remembering the ancient persecutions he fought against the punishment of death inflicted upon the heretics. Now, probing into the soul of this incomparable saint, how can one declare, with the judgments of historical indifference, that he was right in both of these so opposite phases of his life? Oh, is it not better rather to acknowledge that the persecuted, when they become in their turn dominators, fall into two great classes: either they forgive, preaching religious freedom, and they are the lights of faith and of philosophy; or from the joy of empire they draw the greed for vengeance, and they do not rise from the mass of common men; by virtue of this intellectual or imperial power they are responsible before mankind.

Let us take another, contemporary, instance: the expiatory monument raised on October 27, 1903, to the memory of Michael Servetus, in the Place de Champel in Geneva, where he was burned on October 27, 1553. Those most noble Genevan Calvinists, whom I love and whom I extol, have built this new memorial and this new atonement: the remorse of the children of religious persecution for their fathers, the reparation publicly offered with an expiatory monument. But those Calvinists, in order to minimize the guilt of their master, say that they condemn in him "an error which was that of his century." That is not correct, for a forerunner of the Reformation, John Huss, was condemned to the stake by the Council of Constance, also for Article 18 of the heresies imputed to him, according to the following tenor: "No heretic shall be given up to the secular arm to undergo the penalty of death." And before Calvin condemned Servetus, a fervent Christian but an anti-Trinitarian, N. Zurlinden of Berne, and Sebastian Castillion, by his immortal work of March, 1554, both Calvinists, had proved that one may not molest anyone whatsoever for differences of religious opinion. We may therefore charge Calvin with having brought into the new faith the soul of the ancient Inquisition. And his responsibility grows, as does that of the other Protestants of Switzerland, Germany, and England, since, scarcely freed from persecutions and become dominant, they proved unable to free themselves, like the magnanimous ones whose names we exalt, from theological hate.

How, then, freedom of conscience is bound up with freedom of

> science, which separates itself from the other like ripe fruit, this is not the place to inquire, as this is not the moment to investigate by how many and by what diverse ways one may arrive at the grand constitutional theorem of the freedom of cults and of teaching. I was prompted to attack, in so vital a matter, that historical indifference—according to which the fact is confounded with the truth, reality with justice—and, while absolving the persecutors, to cause to shine always more and more, also by means of this generous forgiveness of history, the greatness and the sublimity of the martyrs.
>
> It is true, according to my contradictor, that history is intolerant, it is a tissue of strifes, from which progress bursts forth; but, in these fatal and continuous controversies, how many are not the titles of immortal glory of those who suffered for the most noble ideas, and, conquered but untamed, turned to glorious rebellion, handing on to the races foredoomed to martyrdom the redeeming torch? And who would not belong, in an ideal land which each one of us selects in his study of history, to the beggars of Holland rather than to the army of Philip II and the Duke of Alva, to the exiles of the colonies who later formed the United States of America rather than to the persecutors in their native seat? In that day on which every judgment of preference or of choice is extinguished, history will cease to be the mistress of life.
>
> Luigi Luzzatti

The speech was admirable for limpidity of eloquence and for loftiness of thought; the distinguished man, in glorifying the martyrs of religious intolerance, affirmed that "the Jew slain by the crusaders died darkly, without hope of increase on earth or of recompense in heaven." This statement was not received without argument on the part of several scholars—among them Professor Chajes of the Institute of Higher Studies of Florence—who, by citations and reasoning, sought to prove that it was impossible to deny that belief in a future life is a dogma, and one of the most important, of rabbinical theology.

Luzzatti confirmed his ideas in this short letter to the editor of the *Giornale d' Italia:*

> Sir:
>
> If the Israelites had believed in a future life, what effect that faith would have had on their present life is one of the most interesting and widely discussed themes. An eminent scholar, Lodds, in two recent volumes, reclaims such a belief for the Jews, in which he is opposed to Renan, who denies its existence in the beginnings of their religion.[3]
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> However, in the Bible the divine scourges of Jehovah struck to

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[3] See Ernest Renan, *Histoire du peuple d'Israël*, Paris, Calman Lévy, 1887, Vol. I, pp. 42, 130-131.

> the ground the wicked generation and the future generations bound up with it in the tremendous solidarity of evil.
>
> Similar earthly punishments were threatened by those marvelous and blessed judges who were the prophets.
>
> And without renewing here a dispute not to be exhausted by a whole library, I have always thought that the idea of the future life was pale and feeble among the Jews, and did not achieve the redemptive or consolatory mission that it possesses in Christianity, in Mohammedanism, and in certain other religions.
>
> That is why I wish to retain the statement contained in the paper before the Philosophical Congress that you wished to publish.
>
> ROME, November 3, 1909.
>
> LUIGI LUZZATTI

The Roman congress of Italian philosophers left behind it an odor as of powder, and the discussions which had been carried on verbally were continued in the journals. Benedetto Croce, who had not participated in the congress, was invited to voice his impressions, which he expressed in an interview with E. Zaniboni, published by the *Marzocco* (November 7, 1909). Zaniboni started the conversation with the known controversy with Luzzatti. And Croce replied:

> As for Luzzatti, another anti-Hegelian, he has taken up again a controversy he started with me some months ago in the *Giornale d' Italia.* This is what it deals with: I said that in writing the history of religious strifes one cannot condemn the persecutors and exalt the persecuted, in the name of the principle of freedom of conscience: this is a practical and limited principle, arisen in late times. It is necessary before all, to understand the motives which moved both the one and the other. The austere Calvin, we may suppose, in sending Servetus to the stake, was convinced that he was accomplishing a mission intrusted to him by God. Calvin was the sort of man who would punish himself in just as implacable a manner. This is why the blame that Luzzatti wishes to inflict upon him has no historic value; we would go further: it has no rational significance; it is poetry, not history. Luzzatti wishes to exalt those who, in the past centuries, fought for tolerance; but take note that among them there were not always the noblest and most heroic spirits. Often they were the rhetoricians and the indifferent. The vigorous spirits killed, and were made to kill. That is history and no one can change it.

"But Luzzatti, on his part," observed the interlocutor, "deduces that according to your view history would cease to be the 'mistress of life.' "

> Of course, [was the laconic answer.] There is no longer an historian, or a theory of history, which takes that Ciceronian definition seriously. Our moral conscience is the mistress of life, not history, which tells us only what has happened and how it happened.

Some members of the congress, I have been informed, have been frightened by my intolerance. But I tell you that in matters of history so many are tolerant that I wish to use tolerance even toward the intolerant of the past. A pretty word, tolerance. In life no one is tolerant, because every one has something to defend; and if we no longer raise pyres it is because our customs no longer permit it, and pyres would now be both cruel and stupid. We have replaced them with other weapons. Whoever wishes to be frightened let him be frightened; but he will be frightened at that which he himself does every day.

In any case, [Croce continued,] in Luzzatti and in those who echo his views there has appeared another common prejudice against Hegelianism; that is, in that it is indifferent to the moral. But how! Indifferent to the moral!—a philosophy whose supreme concept is spiritual freedom? Hegel is averse to moralism, yes, that is true; that is, he is averse to sermons, to ingenuous scandalizings, to the charlatanry of professional morality. But it is also true that the more he casts away the appearances of moralism the more he affirms the substance of morality.

At this point Pompeo Molmenti reëntered the lists with the following article (*Marzocco*, November 14, 1909):

MARTYRS AND THEIR HISTORICAL AND MORAL VALUE

The controversy between Luigi Luzzatti and Benedetto Croce (we are glad to call it controversy and not polemic, for it has grown constantly more calm, thanks to the loftiness of mind of the two adversaries) concerning the historical and moral value of the martyrs, has taken on, in the recent discussions, singular importance.

The reasoning of Luigi Luzzatti seems to me, by its novelty and its ideal beauty, most lofty and irrefutable. He seeks in history to ascertain how and why the martyrs died—the martyrs of the great religions, those of philosophy, of the fatherland, of science, and he lingers with particular satisfaction over the martyrs of religion. In his note to the recent congress of philosophy he spoke of the different and equally admirable way in which the martyrs for their faith in Buddhism, in Christianity, and in Judaism in the Middle Ages, knew how to die. These researches and considerations form part of a new work, in which Luzzatti will complete that of the *Libertà di coscienza e di scienza.* But already the note to the philosophic congress has excited, like the book, the liveliest objections. The Jew in the Middle Ages, says Luzzatti, through the persecution of the crusaders, died darkly solitary, without hope of increase on earth or of resurrection in heaven, while the Buddhist martyr hastened by reason of his desire of union with Nirvana, and the Christian virgin, assailed by the wild beasts in the arena, drew her robe about her, more careful of chastity than of grief, and already wholly absorbed in the sure and ineffable joys of paradise. It was remarked to Luzzatti that the Jewish martyr too believed in a future life, but he thinks that their faith therein was weak and inert. Between Renan, who denies that the Jews believed in a future life, at least in the most ancient age—and Lodds and (in these recent days) Professor Chajes proving this faith with exact citations of facts and of texts—one may reasonably conclude that if absolute negation is untenable on the other hand the God of the Jews, and the prophets who were his sublime interpreters, chastised the erring among the faithful in the present life unto the third and the fourth generation, leaving as in a shadow the sanctions of the beyond.

But, Croce adds, Calvin, in sending Servetus to the stake, was convinced that he was accomplishing a mission intrusted to him by God; and that therefore the blame which Luzzatti would impose upon him has no historical value. But Luzzatti—while recognizing the effect of the atmosphere which breeds intolerance, while acknowledging the gloomy cruelties of the penal law of mediæval times—if he absolves the persecutors, glorifies the martyrs all the more; or, better said, he hesitates to absolve the persecutors when, as in the case of Calvin, illustrious forerunners of the Reformation, like John Huss, and contemporaries of Calvin himself, like Zurlinden of Berne and Sebastian Castillion, had proved that it is not right to kill or persecute for differences of religious opinion. Hence Luzzatti is right in not entirely absolving Calvin, who, from the moral point of view, is inferior to those contemporaries of his, in whom to-day we may recognize, grander and nobler, the precocious initiative for the defense of free faith. To leave the Catholic inquisition to set up a Calvinist inquisition was such a contradiction as to make one say to a defender of Calvin that the excuse of Calvinism in Geneva is only this, that it had but one victim, Servetus.

Luzzatti, in his book and in the note to the philosophical congress, judges men and events by an ethical criterion; he is not indifferent to moral valuations, which for him are an essential element of every function of our mind. But for Croce history has ceased to be the mistress of life. Placing himself above human events, he sees them all unfold with serene indifference: the thesis is the persecutor, the antithesis is the persecuted; the inevitable strife between them is the tissue of which history is composed, and the civilization of the world is equally indebted to Melito and to Socrates, to Judas and to Jesus. The rebellion against this doctrine is logical; history ought indeed to be the mistress of life! And in fact, if the physical sciences employ experiment or observation, or both these means of investigation, what would remain for humanity except to reconsider itself in the chance vicissitudes of history? And if you take away from humanity this light and this guide, what would remain with which to draw from the experience of the past the rule of the present and the probable conjecture of the future?

Benedetto Croce, to whose philosophic researches we bow, denies that Hegelianism is indifferent to the moral, and affirms that its supreme concept is spiritual freedom. And if that is true, who is more Hegelian, without trying to be, than Luzzatti? Luzzatti seeks in all times in history even the feeblest ray of spiritual freedom, he connects it with the evolution of the times, and he sets himself the task to show that at every moment—by the protests of the martyrs, or by the intuitions of the philosophers, or by the faith of those who recognized in religious freedom the sanction of the sincerity of beliefs—there was being produced, through ineffable strifes and griefs, the present-day theorems of spiritual freedom. Croce says that there were persecutors who were nobler spirits than the persecuted. It may be so, for not all those who defend freedom are worthy of it; but those who die for their faith, religious, philosophic, or humane, have a presumption of greatness which will always be lacking to those who bring them to a violent death.

And whoever studies history without the guidance of this categorical imperative—to use Luzzatti's phrase—of the moral evaluation of facts and of men, is crossing a moor where all is dry and desolate.

In short, either Hegelianism is the indifference of history, or it is the moral evaluation of it. In the former case, in the controversy between Luzzatti and Croce, we do not succeed in understanding why Croce argues with Luzzatti, since they are substantially in accord.

We, who have the highest esteem for Benedetto Croce, take the liberty of inviting him to observe a fact which seems to us eloquent. The *Osservatore Romano* in these recent days, continuing a controversy in which we held the field against it, went so far as to declare this enormity: that since there is only one true religion, that is Catholicism, it alone has martyrs, and all the other religions, which are fallacious, have swindlers, who are well able to die, or are all the more able to have heroes. Now, is not Croce afraid that his doctrine may assist those who glorify the persecutors and vilify the martyrs? And how much more beautiful, more serene, more worthy of humanity, is the research of him who glorifies all the great spirits, and glorifies them by so much and more as they are good, upright, lofty, and as they know how to die unafraid, serene, or exalted by one of those ideals, religious, philosophic, or humane, which then become the pride and the light of civilization! For what religious truth is will be disputed, perhaps eternally, but that the sense of the divine is natural and permanent in the conscience, and represents one of its loftiest manifestations, will also be perpetually true. Therefore for us, as for Luzzatti, greatness is not in the quality of the faith, but in the energy of the effort directed toward the affirmation of the faith that one professes in joy and in suffering, and more in suffering than

> in joy. In this energy, transmitted from generation to generation, is the glory of humanity, which advances and perfects itself.
>
> POMPEO MOLMENTI

The *Civiltà Cattolica*, in its issue of December 4, 1909, occupied itself extensively with freedom of conscience and science, a topic in which, according to that publication, truth is lucid and unquestionable:

> It is impossible that he speaks the truth, in dealing with a truly divine religion, who does not believe in religion itself. Nor can we claim so much for one who ignores the existence of any certain revelation, as Luzzatti ignores it, who is of Jewish origin by race but does not even regard the Old Testament as a divine book, and esteems it only as a highly moral work (p. 324). To get others, still incredulous, to think as we do, it would be necessary to persuade them first of the truth of our faith, and to communicate to them the conviction, immutable in us, that God spoke through the Prophets and through the Apostles, and above all through His only begotten Son, Jesus Christ; that the Catholic church transmits to us, inviolate and infallible, the word of God; that our religion, so constituted, is not simply propounded to some but is imposed on all mankind, and it alone is approved by God, it is the only savior of souls; that all other cults are errors of the human intellect, and not by these is anyone saved, but he who, excused by invincible ignorance, professes them and honestly follows his conscience, will have so much grace from God as to conceive an act of faith in Him and an act of love, by which he will be joined, if only unconsciously, to the spirit of our church, and thus he will obtain salvation. This is the immutable truth, to convince the world of which has made worth while all the miracles wrought by God in the course of the centuries, which, with historical certainty, are known to us from the days of Abraham to our own; two thousand years of preparation for the coming of the Savior, in whose expectation a people lived; two thousand years of ensuing glories, in which the symbols and the prophecies have been fulfilled, and the signs of sainthood have been continued. And between the one series of centuries and the other, Jesus Christ at the center, greater by far than all that preceded him and all that followed him. He alone the object of hope for the ancients, object of faith and boundless love, even to heroic virtue and even to blood, for the new times; he alone who is made manifest Savior and Master of all, and the only begotten Son of the Father, full of grace and of truth. Whoever ignores this—and every one who does not believe ignores it—cannot understand and cannot say in what sense and in what measure religious freedom should be respected, and science may withdraw itself from the rule of faith. And only he who knows what are, with respect to the persons invested with public power, the legitimate consequences of our faith's being universally and pub-

licly imposed on all by God—on kings and on society, no less than on the mean and on the common—can correctly assign the offices of the state in connection with religion and the relations which exist between the church and political society.

It is necessary, then, to resign one's self to hear the subject discussed without the real truth being known and without being able to make it understood. And with this distinction, which renounces the assigning of definite laws, which are before God, the *Civiltà Cattolica* measures the relative merit which it can allow to Luzzatti's work, and descends to discuss it with him. But, even in singling it out from the superior order of grace and of faith, the *Civiltà Cattolica* believes that the philosophy of Luzzatti is often false. And, first of all, it cannot be admitted that all religions are bound in one bundle.

Most particularly unjust is the idea of putting Christianity on a par with other religions, with that of Mohammed, with that of Buddha. Have you not faith, have you not recognized that here is really God, that without doubt He is here revealed? And be it so! But that your eyes are not wide enough open to discern the infinite space that lies between Mohammed or Buddha and Jesus Christ, between the state of the Arabs and of the Indians and the Christian nations, is of course a thing not to be expected. It is a new proof that, to reject our faith, one must refuse to consider it a little attentively, form a judgment that will be like the others, and think no more of it.

But those who wish to put the Catholic church on a par with the other religions in the exercise of force against the dissentients, practice another iniquitous impartiality. Christian blood has been shed by the idolators of Rome and of Persia, of China and of Japan. Catholic blood has been made to flow by the Arians and the Donatists and the Iconoclasts, and by Henry VIII and Elizabeth and other heretics in various times. And can it be said, as Luzzatti says, that the Church of Rome, when it had the power in its hand, has done as much?

Now we say that this too is a great injustice, looking thus materially at the force exerted, thus examining the reason and the law, or the thought with which force came to be used. Materially, we have on the part of the false sects, either pagan or heretic, the most barbarous violence, and the massacre of Christians by thousands, and the cruelty of unheard-of tortures; on the part of the church the hobgoblin built up by its adversaries is reduced to the executions performed by the authority of the Inquisition. Now, in all the centuries and in all the countries in which the Inquisition lasted, there were not put to death so many apostates as the Albigensi alone and the Huguenots alone, or Elizabeth of England alone, killed among the Catholics, because they were firm in their religion. To speak then of St. Bartholomew's Eve, or of the popular uprisings against

> the Jews, as if the Catholic church should answer for it, or as if our faith itself had inspired those deeds, is great ignorance of history and of the doctrine professed among us. The victims of that night were by no means all innocent of common crimes, and had interests quite different from those of religion. The Jews excited the scorn of the people among whom they lived, not because they were Jews but because they were usurers, and because they were often convicted of other grave crimes against the Christians. Of which Simoncino of Trent is a witness, and many were the cases, and then many were treated with generosity. And yet not only St. Bernard, remembered with praises by the most illustrious author (p. 195), but several Popes, and particularly Innocent II, unremembered by the illustrious author, set themselves to calm the masses and to stop the anger.
>
> If, then, we look for right, there was not a shadow of it among the enemies of the church. They were nothing else than persecutors and murderers of their peaceful brothers, not convictible of any crime but invincible in their faith in God: they neither offered resistance nor let themselves beg for peace from the tyrants and the murderers. For this peace and for this love those of our church were killed by thousands, true martyrs and emulators of the divine Angel who bled on the cross; for they are the brightest gems in the royal crown of the church, the Spouse of Jesus Christ. It is a strange thing that to this glorious army, etc.

And here the *Civiltà* finds the means of flinging a dart at Molmenti, who in the *Marzocco* (November 14) supposes that the martyrs of the other religions, heretics, Jews, Buddhists, are in number and in quality to be placed on a par with the Catholics:

> One must be ignorant of history and willingly dream, not to see the moral qualities and the great array of the Christian martyrs, and, on the other hand, the sole rare exceptions of some great Epaminondas, a John Huss, a Servetus, can be counted on the fingers; of our own we keep silent, because all we could say would be little. A great illusion is Molmenti's, not that of one who would say that the only true and divine religion is the Catholic.

The *Civiltà Cattolica*, after having refuted, as it thought, Luzzatti's historical errors, attacked other mistakes which he committed, the thoughts regarding the church and its saints. It is not true, for instance, that the church wants the support of the civil power for fear that otherwise religion would be overcome: it wants it because of the reverence due to God, for the benefit of the people, for the good of the state. But the *Civiltà* recognizes, besides the highest genius, the honesty of mind of the writer, and condones the errors inevitable in one who does not feel the divine truth of Catholicism:

> We repeat sincerely that, for an outsider, the reasoning and the judgment of Luzzatti reveal a just and courteous mind, He is courteous in wishing freedom for Catholic works, even though the principles upon which he rests are not at all true. He knows man well, when he teaches that science is not enough to satisfy the heart and to support life; however much he may err in thinking that human science, as it is now understood—with its hypotheses and conjectures, for example Darwinian evolution—can bring one to know the true condition of nature, and that faith is nothing more than an exaltation of the soul to which no real object corresponds. Oh, indeed! If it were so the author would have great reason for requiring that every one respect the innocent fictions of every one else, and that the state be indifferent, and that to do good to all one should be independent of any religious idea.
>
> As for us, gifted with that faith which conquers every error, as for us alone, to whom the revelation of God is made most certain by invincible arguments, whence is plain the history of the centuries and of the nations, and wherefore, in judging the truth (*spiritualis homo indicat omnia*, says Saint Paul), we see and touch solid things, unlike those who, if they believe, believe arbitrarily and without motive and against reason, so that they sleep and dream: as for us, we understand freedom quite otherwise. Of course we do not renounce freedom, magnificent treasure of the intellectual nature, and which in movement or in action most loftily shares with divine causality in directing things to their end. We understand it well in that guise in which it shares precisely with divine causality, but does not detract from that causality, claiming to be first, since every created virtue is necessarily second.

To the courteous but belligerent critique of the *Civiltà Cattolica* Molmenti replied (*Giornale d' Italia*, December 17, 1909) with calmness of judgment and of language:

> The *Civiltà Cattolica*, in its recent issue of December 4, examines, with serene courtesy, Luigi Luzzatti's book on freedom of conscience. We take this opportunity of replying, with equal calmness, to some criticisms which the writer in the *Civiltà* levels against the articles about Luzzatti's book which we published in the *Marzocco* of Florence and in this journal.
>
> We have never said, nor thought, that the martyrs of other religions, like the Jews and the Buddhists, are, in number and in quality, to be put together and on a par with the Christian martyrs. Commenting on a just and high thought of Luzzatti's, we asserted that every great religion has its martyrs, according to the diversity of faiths.
>
> But all these seem and are minor questions compared with the substantial point of the controversy. Since, according to the *Civiltà*

Cattolica, there is but one sole truth, the Christian faith, as it professes it, and as all the rest is heresy and error, the consequence follows that religious freedom can be recognized by Catholicism in those states in which the Catholics are in the minority, but where they predominate the cult publicly dedicated to the false gods can and should be prohibited.

Now it is just at this point that one must disagree with the representative of the thought of the Vatican. Firstly, since even in those countries where the Catholics prevail the government is not in the hands of the theocracy, and depends chiefly upon lay unbelievers, it seems to Luzzatti, and it seems to me, that the separation of church and state would save the Catholic church from these contacts which it must deem impure. For religious freedom gives to God what pertains to him, and frees faith from profane intrusions. The state, almost everywhere, is necessarily lay. How can the Catholic church hope to become again the sole religion of the state, so that all the others would have to be tolerated in the same manner as error is suffered? And why then not accept in Europe, with manly courage, the principles that have been accepted in Anglo-Saxon and Latin America? And why is that religious freedom which in the United States of America the Catholic church recognizes and glorifies, despised and vilified by it in France, in Spain, and in Italy? Are there then two divine principles, one for one continent and another for another?

In Luzzatti's book, which the *Civiltà Cattolica* examines fairly (and in this we acknowledge its superiority over the *Osservatore Romano*), the acumen of genius is sharpened to demonstrate that the protection of public and private law ought to guarantee the various forms of cults, according to their inherent vocations. And that is why, with an independence which does him honor, and to which the *Civiltà Cattolica* renders justice too, Luzzatti acknowledges the technical superiority of the laws of the United States and of the canton of Geneva, compared with the French law of separation of church and state.

Here, resigning itself to the loss of an absolute empire which will never return, the genius of the leaders and the writers of the Catholic church ought to make itself manifest. They ought not to reject religious freedom, but inquire what form of religious freedom befits the vocation and the spirit of the Catholic church.

On this precise ground, new and really useful, the researches of this book, the defense of which we have taken up with a joyful heart, are based.

But there is more: if the Catholic church believes that it alone possesses the truth, and that all the other religions are in error, given the present-day political freedom and the impossibility of driving out the other cults by force, why does it not, taking up again the splendid traditions of the first three centuries, combat error with faith to-day, when no profession of faith has martyrdom as its price? Why does not the *Civiltà Cattolica* perceive that precisely where the struggle of the various faiths in competition is placed beneath the constitutional guarantee of religious freedom, as in the United States, Catholicism gains more and more ground, it expands and conquers difficulties, to which it succumbs in the countries in which its triumph is due rather to force than to persuasion? And how is it that the church does not see that the struggle improves and purifies Catholicism, so that one may not compare its splendid effects in the United States and in Germany with those wretched and woeful ones in Spain and Portugal?

Arguments like those of the *Civiltà Cattolica* are made for the use of Italians, but they would make the Catholics of the United States laugh.

The *Civiltà Cattolica*, which feels the weight and the responsibility of past persecutions, would laugh it off by asserting that the church was never a persecutor.

To us that sort of assertion seems like the confession of a sorry past. But from the night of St. Bartholomew to the *dragonnade* of Louis XIV against the Protestants, from the *auto-de-fé* to the last abduction of the child Mortara in 1857 at Rome, carried off from his Jewish parents, how much blood, and how many spotless victims!

And we speak only of modern times, without going back to the Albigensi and to all the infamous works of the Holy Inquisitions.

But, we repeat, the apologists of the church who deny all this past of blood, render without seeing it, without knowing it, the greatest homage to that religious freedom which signifies sincerity of faith, elimination of hypocrisy, a true victory, beautiful and good, obtained by the intrinsic virtue of the churches which abhor any external compulsion.

The *Civiltà Cattolica* says that only he who has faith can understand that state of mind which cannot tolerate the error of other religions. But since he who has this faith, whom we profoundly respect, has no longer the power, by the fortune and to the honor of civilization, of stamping out errors in others by violence, these possessors of perfect faith must resign themselves to dispersing them by persuasion, under the guarantees of public law, which grants equal rights of propaganda to all.

And indeed in these conclusions the *Civiltà Cattolica* even approaches ill will when, at the end of its article, it argues thus:

"And we shall close by saying that in our times we should be glad enough to be governed according to the new ideas of the Hon. Professor Luzzatti, but we should be glad of it as a condition less harsh and less sad than that to which we are ordinarily subjected by him who is in power, and does not recognize the divinity of religion."

In truth, if we were bitter in our disputes, we should like to argue still with the *Osservatore Romano*, dismissing it with these conclusions of the *Civiltà Cattolica.* And since it does not seem to us that our times are preparing to renounce freedom of conscience and science, the best the Catholic writers can do is to recognize with grateful mind the justness of those men who, without being illumined by divine grace, give to all faiths, especially to the Catholic, the unshaken foundation of an inviolability which freedom always more and more illumines and perfects.

P. MOLMENTI

With this last writing Molmenti brought to a worthy close the controversy which, as the reader has been able to see, remained, from beginning to end, elevated and serene. The subject, very delicate and difficult, could not have been treated either with greater wisdom or with more profound persuasion; and when, in the defense of a principle, both are present, it is not necessary to pass those limits beyond which he who is right often becomes wrong.

Those limits, in the controversy which we have reproduced, have been scrupulously respected, and that is why, besides the fact that one may judge of the ideas in it, it deserves to be preserved as a model of courtesy and of learning.[4]

ANTONIO ZARDO

APPENDIX II

DEVIATIONS FROM RELIGIOUS FREEDOM IN THE UNITED STATES (THE KU KLUX KLAN)[1]

AT various times and in different forms the United States has witnessed movements analogous to this secret society, which is not afraid to resort to violence with respect to the negroes, the Catholics, and the Jews.

The war has broken out again. It is the manifestation of a conflict of races and religious sects in a country where the peoples of Europe, Asia, and Africa live in the shade of uniform laws, but where the spirit of freedom and equality and the Christian principle of brotherhood are held in check by the force of instinctive antipathies, by the inextinguishable ambition to dominate.

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[4] AUTHOR'S NOTE.—In closing this controversy of a liberal savor I wish to recall a demonstration in favor of religious freedom, perhaps one of the principal ones in Italian political life. A liberal candidate having been nominated many years ago in the constituency of Bergamo against one who represented the religious protests against the new Italy, some representatives of the Liberal Party in the House, being asked by their friends in Bergamo, sent this telegram which had a loud echo in the national life:

"Whether victors or vanquished, we send you our grateful greetings, because, inspired by a most lofty ideal you consented to affirm in the constituency of Bergamo the glorious thought of our masters, who, intolerant of any intolerance, proclaimed full freedom of conscience and by the laws of guarantees, assuring the independence of the spiritual power, always taught and practiced the doctrine of free religions in the sovereign state."

ANTONIO DI RUDINI, LUIGI LUZZATTI, POMPEO MOLMENTI, CESARE FANI

[1] Jean Bourdeau, from whom I get this news, has made a diligent study of the K.K.K.

In 1852, when the Irish immigrants had reached a million and a half and (in part uncultured and turbulent) were causing sometimes grave disorders, there arose a secret society, called "Know-Nothings," with the double aim of dislodging from the cities of New York, Washington, and Philadelphia, and from their seats in the legislatures, the elected Irishmen. This party, which ended by degenerating into a *Camorra*, disappeared during the Civil War.

Right after the Great War, in which the American negro divisions had marched beside the white legions, equally applauded, the negroes returned to their country with the feeling that their patriotic conduct would assure them equitable consideration in public and private life. But the return to persecutions and contempt soon enough made them lose their faith in the good intentions of their white fellow citizens.

Under such circumstances Colonel William Joseph Simmons conceived, in 1918, the idea of reorganizing the old Ku Klux Klan and the Know-Nothings, directing it not only against the negroes but also the Catholics and the Jews, who had become numerous and influential, and giving to the new society, which retained the grotesque rites of the old, the name of the Ku Klux Klan.

Under the nationalist impulse it spread like an epidemic in the southern states, in Florida, Louisiana, Arkansas, Texas, and in California, where nationalistic sentiment rose to a high pitch of exasperation through contact with the Indians, the Chinese, and the Japanese. The number of the members rose to three million. Avidly concerned with the electoral struggles, they strive to win over the electorate. They seek to strike at the rights of the negroes, the Jews, and the Catholics, whose schools are closed in the districts where they are in power.

The civil law can hardly attack them, since they refuse to bear witness.

Against the K.K.K. there has been founded a league composed of whites, negroes, priests, doctors, etc. (called the Interracial Coöperation).

The society of the K.K.K. seeks to spread also outside of the confines of the United States. But in Canada the society of the K.K.K. of Toronto has been refused the grant of a charter of incorporation.

Recently the German press has been concerned with a germ of the K.K.K. which arose in Germany in 1923 (when all the nationalist organizations and the *Rollkommandos* were suppressed) with the purpose of freeing Germany from external enemies and from those who belonged to different races inhabiting that country.

But the Catholics of the United States have also a new enemy. The anti-papists, fearing that in the persecution of the numerous negroes and the Jews one would perhaps forget the Catholics, thought of founding in

New York an association for the purpose of combatting them. According to these zealots of New York every American activity is ridden with "papist" conspiracies, almost all Americans voluntarily or involuntarily become agents of Catholic propaganda. They would even want the four great frescoes representing the discovery of America through the work of Columbus, Cortez, Pizzaro, and De Soto taken down from the cupola of the capitol in Washington: glorifications of the tools of Catholic invasion! All the more so, they say, since Columbus did not discover America; it was discovered by the Scandinavian navigator Lief! However, Lief having been a Christian and depending on Rome (since the Reformation had not yet taken place), even then it was a case of a papist conspiracy!

But it may be hoped that the number of those Americans who wish to fan latent hatreds, or even kindle new ones, will grow less.

As far as the opinion concerning a pre-Columbian discovery of America is concerned, a new claimant rises from time to time.

Now America has been discovered by the Irish bishop, Brandan, and already in 1000 A.D. the whole North American coast is known by the name of Magna Irlanda; now they are Danish navigators who first set foot on the fourth continent; and now a German scientist of Frankfort, Karl Maria Kaufmann, advances the hypothesis that Christianity penetrated into America as long as a thousand years before Columbus. He follows traces of the ancient world and of primitive Christianity in the reigns of culture of the Mayas and of the Incas; he sketches the most striking examples of the parallelism of the antiquity of the old and the new world.

Now scientific imaginings need no longer stint themselves, and it will be proper to examine in its time even the hypothesis of Kaufmann. But even if his thesis triumphs, the credit for having disclosed and joined to the old world the unknown continent will belong eternally to our Columbus.

APPENDIX III

A SIGNIFICANT CORRESPONDENCE ABOUT THE SEPARATION OF CHURCH AND STATE IN GENEVA

THE letters of a distinguished Genevan, Edmond Chenevière, addressed to me, full of frank anguish over the separation of the Calvinist church from the state, and my reply—in which, while understanding his grief I defend the liberal thesis—are, it seems to me, opportune to publish, because they express two sincere states of mind in contrast upon one of the most delicate spiritual problems:

March 7, 1908

YOUR EXCELLENCY:

. . . I have been distressed by the adoption of the separation law, which could be understood in other countries but which contravenes the very nature of Geneva, where our political life has always been allied to our religious life, and where we ought not forget that it is thanks to our church that we have conquered, and thanks to the Reformation that we have not become a little French subprefecture, after having probably been a dependency of Savoy.

Your Excellency will excuse the sincerity and the frankness with which I have expressed my opinion, but you will understand the love which every one entertains for his nationality and the pride with which I have borne the title "Citizen of Geneva. . . ."

March 28, 1908

. . . A referendum has not been demanded and the code becomes effective January 1, 1912. . . . And yet the union of church and state gave my little country a great rôle in history! And then I am too frank to conceal from Your Excellency that I have seen with regret that the adoption of separation has been the result of an extraordinary alliance between socialists, who wish to demolish everything, and radicals, free thinkers and Roman Catholics, who would not vote in favor of separation in France and who have voted in Geneva for the "suppression of the religious budget." This is one of the things which grieves me. And note, Mr. Minister, that I have always openly deplored the *Kulturkampf*, religious persecutions, infamous spoliations! Notre Dame ought to be given back (to the Catholics), and I hope that this act of belated justice will not be long delayed. In the next place, I dread schisms, and what we call "little chapels," and I fear that the separation will divert from the church and religion many citizens who without practicing Christianity very closely still want to preserve traditions, go to church on important holidays, baptize their children, have them receive communion and sanctify their marriages. We shall have perhaps more ardent Christians, but they will be in smaller number and many will fall back into complete indifference. God grant that I delude myself.

The vote of June 30 was not the result of a referendum; it was a vote required by the constitution.

As regards the initiative which some frantically demand, it could call together the requisite number of citizens to have the matter submitted to the people, but there is little chance that it will come about. I, who am a convinced anti-separationist, would not demand it, and respectful as I am of the popular will I do not know whether I would vote for it. We would be beaten in any case; the question is to know whether one would wish to increase the minority or not.

Edmond Chenevière

March, 1908

Dear Sir: [1]

I understand your heavenly anguish, as I divine the state of your Genevan soul.

You long for the return of the time when church and state helped each other to reinvigorate the moral character of the people of Calvin, when to the somber ideal of an omnipotent and inaccessible Christ you would carry the sentiment of civic virtue; and after having shaken off the yoke of Rome you wish voluntarily to place yourself under the yoke of God!

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[1] This letter is an answer to the one written to me by M. Chenevière on March 7.

Grace and predestination were your spiritual guides, and political liberty was disciplined and fortified by this divine servitude. But to-day the old-time state is liquidated. It is possible, even in Geneva, to have a radical-socialist administration come into power; and then liberty, separation, are the sole means to save the integrity of faith.

I comprehend your regrets, but I do not share them. And I also comprehend that liberty of creeds will engender schisms in your church.

You have placed your church under the sole protection of Jesus Christ the Divine; but there are many Christians in Geneva, even in the priesthood, who have doubts on this essential point.

But if schism breaks out, the purity of the faith will gain from it, as religion nourishes itself on sincerity. You can then easily understand the anxiety with which I await your referendum for turning back the state to the church, for refusing your historic temple to the Catholics who have the right to take possession.

Send me, pray, a dispatch on the result of the referendum, if it takes place; this interests me much more than deciphering the letter of Emperor William to the First Lord of the British Admiralty!

Yours, etc. . . .

LUIGI LUZZATTI

APPENDIX IV

NEW REPARATIONS OF LIBERTY

SIR:

An Honorary Committee was organized in 1906, to be presided over by M. Antonin Duboust, President of the Senate, with the purpose of erecting a monument at Vienne (Isère) to the memory of the great thinker and scholar Michael Servetus. The Executive Committee is presided over by M. Camille Jouffroy, former mayor of Vienne, Senator of the Department of Isère.

Servetus practiced medicine for twelve years in the ancient Roman capital where he was "cherished and loved by the entire population," (D'Artigny, *Mémoires,* from the archives of the Archbishopric of Vienne) and where he wrote most of his works, notably that famous *Christianismi Restitutio* which was to lead him to the stake.

This initiative has received the approval and encouragement of distinguished men in every country, while numerous eminent scientists, among whom the Deans of the seven Medical Schools of France, gave their adhesion to this work of reparation. The Academy of Science and the Faculty of Medicine of Madrid have both honored us with their contribution to the work, to which notable bodies of America, Great Britain, Belgium, Holland, Germany, Russia, Switzerland, Italy, Austria-Hungary, etc., have also contributed.

Eminent persons, among them Signor Luigi Luzzatti, Premier of Italy, Mr. Curtis Guild, former governor of Massachusetts, members of the British Parliament, of the municipal bodies of the Spanish cities of Barcelona and Saragossa and of French cities, and members of scientific organizations of different countries have associated themselves with the solemn homage that the city of Vienne is about to render to Harvey's precursor, to the discoverer of the little circulation, to the physician who lavished the treasures of his science and of his zeal on the inhabitants of a town several times visited by the plague during Servetus' residence of twelve years.

This monument was to be unveiled in 1909. But the artist in charge of its execution, the sculptor Joseph Bernard, carried away by his inspiration, went beyond his first plans and notably increased the proportions of his great work, with the consequence of delaying the ceremony. This will take place irrevocably in 1911, a date which marks the fourth centenary of Servetus' birth, and which will be the occasion of an imposing manifestation in favor of tolerance, unknown in the past centuries, and of freedom of conscience, a virtue of modern times.

I beg to ask you, Sir, to associate yourself with this glorification of science, illustrated by Michael Servetus, with this commemoration of a man who had a tormented life and a tragic end, a man around whom passions have been unchained during four centuries, and who must now seal the unanimous agreement of all enlightened minds for the respect due to his memory as well as for the principles of tolerance and freedom which he practiced and which are the pledges of civilization.

I entertain the hope that you will appreciate the high moral value and the nobleness of the purpose which the Committee for the Monument to Michael Servetus pursues, and you will not hesitate to send a favorable answer—above and beyond all political and religious preoccupation—to the appeal that I have the honor to address to you in its name.

Thanking you, I am, etc.

J. BRENIER

Mayor of Vienne, Deputy of the Isère, Treasurer of the Committee

MAYOR OF VIENNE:

I greatly regret that the condition of my health prevents my attending the great celebration of religious freedom.

The sons of intolerant citizens and persecutors, in Geneva as in Vienne, ask to-day with their expiatory monuments, absolution for their fathers, who condemned Michael Servetus. These sublime atonements express the triumphs of human civilization.

LUIGI LUZZATTI

APPENDIX V

A TRAGIC EMINENCE (CALVIN AND MICHAEL SERVETUS)

CALVIN is a "religious Titan"; had he been a Roman Catholic, he would have been as grimly great as St. Dominic, lacking the pity, the gentleness and the prodigality of charity which were St. Francis' characteristics.

Between Calvin and the city of Geneva an intimate spiritual association arose centuries ago, and it still resists time and the leveling action of science. This seems the greatest honor which can be rendered to Calvin, for Geneva is an Athens without decline.

A Calvin who pardoned Michael Servetus would be perfection; the stain of that sentence cannot be cleansed away by recalling the general intolerance of the times in which he lived.

That stain is, however, losing some of its blackness through the rational piety of Genevan believers, who erected an expiatory monument to the memory of Michael Servetus, publicly proclaiming their repentance, creating "the new remorse for persecution," and rendering homage to religious freedom, which is a savior of individual consciences and of nations.

Calvin's dominant idea was to place men under the yoke of God in order to remove them from every other yoke of human or priestly tyranny; and from this dominant idea the doctrine of predestination arose.

His greatness is tragic through Servetus' condemnation; without that bloodshed it would shine serene and sublime.

LUIGI LUZZATTI

L'Evangelista, July, 1909.

APPENDIX VI

QUINTINO SELLA AND CARDINAL ANTONELLI ON THE PREAMBLES OF THE LAW OF GUARANTEES

To His Eminence Cardinal Antonelli, Rome

ROME, November 12, 1872

YOUR EMINENCE:

The law of May 13, 1871, No. 214, prescribing an annual payment of 3,225,000 lire to the Holy See, establishes that such annual subsidy must be placed in the Register of the Public Debt in the form of a perpetual and inalienable annuity in the name of the Holy See, exempt from every kind of taxation or government fee, and from province or city taxation.

This annuity was duly registered in the National Debt Book, following a royal decree dated February 24, 1872. It has been provided that the annual subsidy shall be paid in monthly installments, like His Majesty's Civil List, and not semi-annually as is the case with the interest on state bonds. However, the five years' limitation prescribed by Article 37 of the law of July 10, 1861, No. 94, is to be applied also to this annuity.

Not only was the annuity regularly inscribed in the Book of the National Debt, but the certificate of inscription was also prepared. Payments will be made to the delegate of the Holy See on presentation of the above certificate.

In bringing these facts to Your Eminence's knowledge I beg to inform Your Eminence that the above certificate of inscription is at the Holy See's disposal.

I am, with sentiments of reverence and homage,

Your Eminence's obedient servant,

Q. SELLA,
Minister of Finance

To His Excellency, Quintino Sella, Minister of Finance

YOUR EXCELLENCY:

Your Excellency's letter of the 12 inst., No. 1526, has had my attention, and I do not hesitate in stating to Your Excellency that the provisions of the law which you mention cannot be accepted by the Holy Father, who issued his judgment upon the law and brought it to the knowledge of the Catholic world with the Encyclical letter of May 15 of last year, addressed to the Catholic Episcopate, and with his allocution of October 27 of last year. Your Excellency will readily understand how the Holy Father, after the violent occupation of his state and capital, cannot recognize any certificate issued by those who committed this spoliation. Whatever may be the consequences that may follow upon this fact for his August Person, he will never take any action which may prejudice the unalienable rights of the Holy See, which he has the obligation to preserve intact. He will therefore always prefer to live with the aid of the generous charity of the faithful than to receive under any form whatsoever an allowance from the government to which Your Excellency belongs.

Accordingly, Your Excellency will see that it is impossible for me to delegate any person to withdraw the certificate of income of 3,225,000 lire as a dotation reserved to the Holy See.

I beg to thank Your Excellency for the communication you addressed to me, and I am, with sentiments of esteem,

The Prefect of the Apostolic Palaces,
G. CARD. ANTONELLI

From the VATICAN, November 13, 1872

APPENDIX VII

THE JUDGMENT OF THE ROMAN COURT OF CASSATION IN FAVOR OF RELIGIOUS FREEDOM

Sect. 2 (criminal); May 22, 1892. No. 3243

De Cesare—Ferro Luzzi—P. M. Fucci—Monnet

Disturbance of religious functions; License of Admission—"Salvation Army."

In the case of an offense to one of the cults admitted into the state, a license of admission issued by the government is not necessary, and therefore the provisions of Art. 140 of the Penal Code extend to the religious functions held by the congregation called the Salvation Army.

Monnet and the two others summoned here were sentenced by the magistrate of Luserna San Giovanni in accordance with Article 140 of the Penal Code because they had disturbed the exercise of the religious functions held by an evangelical congregation called the Salvation Army. The magistrate considered that the cult practiced by the Salvation Army is but a branch of Protestantism, which has existed for many years in that valley.

The Tribunal of Pinerolo appealed to, proposed to examine whether the words (creeds admitted in the state), which appear in Article 140, mean that the protection of the law should be extended to any creed whatsoever practiced in the state, or only to those creeds which have existed in the state for a long time or have otherwise been recognized in the kingdom by competent authorities. And understanding by the word "admitted" that the protection of Article 140 of the Penal Code does not apply, reversed the sentence of the magistrate, and applied in its place the provisions of Article 457, relative to disturbing the occupations of the citizens.

The Public Prosecutor has appealed from said judgment, assuming that the word "admitted," used in the new code, excludes intentionally the meaning of creed legally recognized.

He argues that the Tribunal of Pinerolo resolved the question proposed solely by a construction of the meaning of the word "admitted," without inquiring into the principle by virtue of which the word was introduced into the phraseology of Article 140 of the Penal Code.

The Tribunal should have noticed, besides, that its interpretation necessarily presupposes the existence of a law which regulates the manner of admitting the practice of the various creeds in the state, and by consulting history it should also have noticed that, except in the precedent of Piedmont and the Waldensians, such a law could not possibly have existed, because the Tribunal of the Inquisition alone took notice—too ferociously—of such matters. Pursuing the same inquiry, it could have noticed that, after 1848 in Piedmont, and from 1860 in the rest of Italy, the existing legislative precedents tend to interpret Article 1 of the Constitution in the broad sense of freedom of conscience, never to make concrete by law the special manner by which it should be permissible to follow the practice of one's religious belief. And it would have readily understood that the words "creeds admitted *in* the state" (and not *by* the state) could not refer to a legal satisfaction, but to a condition of fact, and that the Tribunal could not ask for the certificate of admission given by the government, in favor of the religious congregation of the Salvation Army.

The Public Prosecutor furthermore observes that the title of the section in which Article 140 appears is: "Offenses against Liberty," and the rights of liberty, according to the most obvious principles of public law, may be recognized either according to the written word of the Constitution, or according to natural law, independently of the words of the law, but in accord with the fundamental principles proclaimed by the law itself.

The latter system was adopted by the code now in use, as distinguished from that of 1859.

Paragraph 81 of the Minister's report on the projected new code, which explains the juridical basis of the above-mentioned part, is as follows:

> In the present legislation the provisions concerning offenses against liberty are not all coördinated with the criterion of their juridical objectivity, nor are they all placed together according to a complete and rational system. This finds its explanation partly in shortness of time, which did not permit the Italian legislator to reconcile the ready actualization of the new liberal order, demanded by the new political conditions, with that mature legislative elaboration which would have been necessary in order to avoid the above-mentioned disadvantages.
>
> The fundamental conception of the new Penal Code is that of referring to natural right the provisions that the code of 1859 referred to the guarantees sanctioned by the Constitution.

In consequence of the principles here explained, the wording of Title 2, Liber 2, of the Code of 1859, which treated only of "Offenses against the Religion of the State and against the Other Creeds Tolerated in the State," was not reproduced, and its place was taken by Subdivision 2 of the above Title, which took the broader form of "Offenses against the Freedom of Cults."

This new title was illustrated by the words with which Paragraph 83 begins, that is to say, "In a state where principles of freedom and civil progress rule, all the religious beliefs that are legitimately practiced must find equal juridical protection by means of penal sanctions."

The word used in Article 135 of the measure which corresponds to Article 140 of the Penal Code did not, however, faithfully reflect the conception of the legislator, since, wishing to guarantee religious freedom as a natural right, and as a consequence of freedom of conscience, the following phrase was used: "Creeds legitimately practiced in the state." The committees of the Chamber of Deputies and of the Senate observed, concordantly, that this sentence might give rise to the doubt which was advanced by the Pinerolo Tribunal, that is to say, that the intention of the legislature was to guarantee only those creeds that were admitted through a legal process, and for that reason they proposed to substitute the sentence "creeds admitted in the state" for the other. The committee for revision of the final text accepted the modification proposed by Parliament without any objection, in order not to require a legal authorization to the practices of religion.

It is therefore clear that the provision contained in Article 140 must be applied to any creed whatsoever in existence, without any necessity of inquiring whether such creed was expressly admitted by law.

The Public Prosecutor lastly observes that the Pinerolo Tribunal improperly held that it would be absurd to suppose that the state wished to admit any creed, even those which are unknown, because of the future. This observation which would lead us to believe, for instance, that even those religious creeds which were in antiquity celebrated with human sacrifice were to be protected if they appeared again, has no foundation; because it is not said that the state has no power to forbid religious creeds offensive to civilization, or to the principles of natural law. But it is said that until the state has forbidden a given creed, which is a religious creed and not the deification of some subversive principle, this creed must be considered as admitted and therefore protected by Article 140 of the Penal Code. Besides the principles which form at present an axiom of modern public law, Article 32 of the Constitution and Articles 7 and 8 of the Law of Public Safety demonstrate the truth of the above assertion.

Since, therefore, it is clear from the above considerations that the Pinerolo Criminal Tribunal wrongly interpreted Article 140 of the Penal Code, etc.

During the time in which I was Prime Minister I endeavored to see that peace reigned in the district of Pinerolo and in the provinces of Avellino, Siracusa and elsewhere between Catholics and Waldensians, and Catholics and Protestants. During momentary disorders I gave strict orders that absolute fairness should be the guide of every inquiry or proceeding. This course was taken in the case of small disturbances in Bisaccia (Province of Avellino) and in Floridia (Province of Siracusa).

APPENDIX VIII

NEW DOCUMENTS ON THE NEGOTIATIONS WITH THE HOLY SEE

IN January, 1896, I wished to obtain from Senator Isacco Artom, who was one of Cavour's most trusted collaborators, some details about a precious document in his custody. This was a memorandum of instructions given by Cavour to Father Passaglia and Dr. Diomede Pantaleoni, the two Italian delegates for the secret negotiations with the Vatican which took place in 1861. The document is wholly written in Cavour's hand, and Senator Artom was kind enough to send me a copy, which I transcribe. The letter which accompanied this copy is not given here, for it is confidential, and Senator Artom expressly asked me not to publish it.

> The delegates must not show that they are eager to begin negotiations.
>
> They must insist that, sure as they are of the friendly disposition of the King's government, they are convinced that any negotiations which had no well-founded probability of success would prejudice both the church and the state, and would further delay the time in which such an accord might be made possible.
>
> It is therefore necessary that they abstain from delivering into Cardinal Antonelli's hands the credentials addressed to him by the Minister of Foreign Affairs, until the time when the cardinals who are to function as negotiators are formally designated by the Holy Father.
>
> They must insist upon the necessity of keeping their business absolutely secret, especially with respect to foreign diplomacy, so as to prevent a majority of foreign states from interfering with a favorable result of the negotiations.
>
> When the negotiations are open, the manner in which they may proceed will depend upon the frame of mind of the Holy Father.
>
> The best system, and that which may better preserve the dignity of both parties and the lofty purpose in view, would certainly be to present, if not the entire draft of proposals as sent from Turin, at least the fundamental principle upon which they rest: "A free church in a free state." In order to render this principle acceptable to the Holy Father, he must be made to see that should it be put into practice in Italy, he would acquire such an authority that in a short time all the nations of the civilized world, the governments of which assume a kind of guardianship over the church, would be compelled by the irresistible force of logic and public opinion to render homage to him, thus breaking the chains by which civil society believes it necessary to impede the full freedom of the church.
>
> Let the church be declared free in Italy, seat of the Papacy, the country in which its influence upon civil society may be feared more than elsewhere, and the church shall be free in Switzerland, in Germany, in France, in Spain, in Portugal, wherever liberal institutions exist and the people are ruled under the ægis of freedom.
>
> If, however, the negotiators should think that these considerations are not sufficient to determine the Holy Father to enter immediately upon the broad road which may lead to a practical result, then they are at liberty to begin their arguments by disclosing the concessions

which the state is disposed to make to the church, placing in the light their supreme importance and the consequences that would derive from them.

Only after the Pope's negotiators have appreciated these concessions may the Italian delegates advance the necessary compensations which the state requests.

In this last hypothesis they ought, however, to keep present in their minds that the treaty is indivisible, and that the King's government will not consent to the slightest concession to the church in a fragmentary manner. It is not a case here of composing a few differences, upon the basis of the principles which regulate at present the relations of church and state, but of substituting an harmonious system of reciprocal, independent freedom of action for the system of antagonism and struggle that has prevailed in the last three or four centuries in the relations between the religious and civil societies.

The negotiators ought not, therefore, to grant definitely any one of the concessions which they are empowered to make, if they have not first induced the representatives of the Holy See to admit the renunciation of the temporal powers, which is the true equivalent of our concessions.

It will also be well to abstain from giving a precise form, that is to say to draw up in the form of articles, according to the plan handed to the negotiators, any one of the concessions to be made to the church, if the negotiators themselves have not established the certainty that the question of the renunciation above mentioned will be treated and discussed in good faith.

Even if this system were regarded as dangerous by the negotiators, because of the Holy Father's attitude, they might start by treating the questions that are truly religious relative to the old territory of the monarchy of Savoy and to Lombardy. But they must always keep in mind that such parleys may have no tangible result. No concession is possible upon this ground. We shall have to ask for much, without having anything to offer in exchange. The negotiators must only aim to persuade the delegates of the Holy See of the absolute uselessness of any negotiations upon the basis and the principles which governed the old concordats.

Although three ways of dealing with the matter have been indicated, the negotiators must not feel bound to follow any one of them in all its outlines. They are free to modify the manner of approach and to conform to that system which they will consider better adapted to lead the court of Rome to enter the road of broad reciprocal concessions, which ought to open a new era for modern Catholic societies. Only they must keep in mind that the present case is one in which there is force in the saying, everything or nothing.

Any partial modification of the present relations between the church and state would bring harm instead of benefit, even if intrinsically good. There cannot be a durable peace between the two societies except by a radical change in their relations. So long as the principle of the temporal power on the one side and that of the guardianship of the church on the other endures, the antagonism produced by the recent political changes in Italy will grow. No political concession which does not imply a loyal and complete adoption of the maxim, "A free church in a free state," will be effective. The time of concordats is past.

It is better to preserve the existing condition, with all the abuses and disadvantages which are inherent in it and which are generally recognized, than to improve it with an act which would give new life to the system of reciprocal interference of the two societies in the spheres in which each one of them moves.

When, after the preliminary difficulties are overcome, the time has come to discuss the conditions to be established, the negotiators will submit to the papal delegates the separate articles which are noted in the enclosed plan, in that order which they consider most suitable.

The following are admonitions necessary to the plan:

OBSERVATIONS UPON THE INSTRUCTIONS

Art. 1. A determined number of cardinals may be admitted to the Senate.

Art. 2. Take as a basis the present civil list, which comprises the Pontiff, the Nunciature, and the Sacred College. It is left to the delegates to negotiate about the palaces, villas and adjacent grounds.

Art. 3. (letter E) In regard to civil marriage, notice that serious political considerations require that in Italy the contract of marriage should be established as in France and Belgium. There should be, however, a great advantage for the church, explaining that there is not the slightest idea of compelling the church to administer the sacrament, or preventing it from administering it. Say finally that it is not an approval which is required, but tolerance (letter F). Make clear the sense of the words which offend public order.

Art. 4. Should it be requested as an essential condition, it might be conceded that the Senate be constituted a court of justice for bishops in criminal cases.

The conception of civil personality is to be explained, and how, while denying it to religious corporations, it might still be granted to such charitable organizations as are governed by religious corporations.

Art. 5. Explain the meaning of the elective system and how the state has in view a plan to introduce a democratic element in the choice of the bishops.

Art. 6. Point out the economic necessity of restricting the number of the dioceses, and, without ignoring present conditions, point out how the proportion of the dioceses to the population ought to be the same as that in other Catholic countries of Europe.

APPENDIX IX

CAVOUR'S OBSERVATIONS ON PANTALEONI'S PROPOSALS

CONDITIONS to be agreed upon for the spiritual independence of the Pontiff and for the exercise of his spiritual authority over the Catholic world:

PANTALEONI'S PROPOSALS	CAVOUR'S OBSERVATIONS
As a double title of due compensation and of national gratitude and veneration, the Pope is to be given as his own compensation that quantity of real property which shall seem to suffice, by common agreement, not only for the needs but also for the dignity of the Holy Father and of his Court. This property is to be immune from all taxation, and from all political action of the government.	I approve the exemption from taxation, but we must have explanations about the immunity from every political action of the government. What does this clause mean? It could not be permitted in any way that such a territory should become a place of asylum for criminals, and should be free from measures of police regulation, justice and hygiene.
Free access to the pontifical palaces shall be permitted to all Christians who have to transact ecclesiastical business.	I approve, even for non-Christians, under the observance of the laws of the state. The residence of the Pope cannot be used as a place of asylum for criminals, either of this state or of other countries.
The above provisions shall become part of the fundamental law of the kingdom, and shall be considered as the result of a bilateral contract in compensation for the relinquishment of the exercise and possession of the temporal power.	Approved.
In case of difficulty the protection of the Catholic powers might be invoked.	I accept in the sense of friendly mediation, but I cannot admit either a guarantee or other similar bond which may give rise to conflict or foreign intervention.
The Pope is to be free to exercise in every canonical form his ecclesiastical legislative power, in matters of dogma as well as in disciplinary matters.	I approve, excluding, of course, every civil sanction and every appeal to the secular arm.
The Pope is to be free to exercise his judicial power in canonical form and to give weight to his judgments with ecclesiastical penalties.	Approved, with the exclusion referred to in No. 5, reserving the question of the regal "interdiction" of churches as a matter to be examined.

University instruction to be free; but the bishop shall have the right of censure for what concerns religious teaching.	The bishop is to be denied every right of censure upon instruction given by the civil administration. The clergy may attend to religious and theological instruction in seminaries and in the churches, where the civil power will abstain from every interference; but the bishop will similarly abstain from every interference with the school and with the university, even in what concerns the chairs of religion and theology. The clergy is free to found other schools in competition with those of the government. The latter shall not have any right over them, except in what concerns respect for public order.

APPENDIX X

SPEECH DELIVERED AT THE UNIVERSITY OF PADUA [1]

Your Majesty, Distinguished Representatives of the Foreign Universities, Honorable Rector, and Colleagues:

In this temple of science, pure and lofty as the temples consecrated to God, in this university where immortal genius has taught, our souls are lifted up to the loftiest heights of the ideal, and from it draw the spirit of brotherhood in knowledge.

Every nation, through the secret as well as the manifest work of the centuries, brings her contribution to the spiritual heritage, open to all, not jealously concealed—this inexhaustible patrimony, becoming ever vaster, by which all may profit without impoverishing it, in a real and holy communion of humanity. The love of truth, which powerful intellects create and reduce to form, is worth most when its rays spread farthest, so that every man is the happier for feeling himself justified before the revelation of nature's secrets, and, more, of the soul's mystery, as well as in the perennially living song of praise, rising ever, like the sun that shines on mortals.

Dante's immortal lines on the love of God may be applied equally well to this solicitously courageous spirit of inquiry, light and flame that it is:

> How can it be, that boon distributed
> The more possessors can more wealthy make
> Therein, if by few it be possessed?

. . . .

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[1] This speech was delivered by Luigi Luzzatti at the University of Padua in celebration of the seventh centenary of the university. Signor Luzzatti represented the Italian Senate, the Lyncean Academy and the University of Rome.

That goodness infinite and ineffable
Which is above there, runneth unto love,
As to a lucid body comes the sunbeam.

. . . .

And the more people thitherward aspire,
More are there to love well, and more they love there,
And, as a mirror, one reflects the other.

A spiritual communion, invisible yet ubiquitous—this is the commonwealth of learning!

We Italians of the University of Padua, which has been for seven centuries the hospitable refuge of minds thirsty for knowledge, avid for freedom, we thank you, our eminent foreign colleagues, for your presence here. Through that intimate harmony which is established in the solemn moments of history between heaven and earth, we feel near us the spirits of Galileo and Morgagni; they greet you and bless you, cheered by the wisdom and the scholarship of you, their heirs. Persisting in our faithful collaboration, we know that we too make a true universal council, a philosophic conference at which truth is sought to do good, where the accord is embodied not in the spineless treaty but in the advance of civilization.

My foreign and Italian colleagues, you breathe in Padua an air pregnant with the origins of science. Galileo, in a letter dated June 23, 1640, wrote to Fortunio Liceti: "Not without envy I hear of your return to Padua, where I spent the best eighteen years of my life." It was in Padua that Galileo formed his most important observations, where he made his most essential researches, and where he conducted them.

I prophesy that this ancient and glorious seat of learning will inspire you, too, to revelation. Such will be Galileo's recompense, as it is Padua's highest hope.

APPENDIX XI

About the Origin of Species [1]

Concerning the theory of descent, the opinions of biologists have been constantly more diverging of late years, so much so that one speaks of a "crisis of evolution."

Among the more determined opponents of evolution, and in particular of the theory of selection, is to be mentioned the zoölogist Fleischmann (A. Fleischmann, *Die Abstammungslehre*, Leipzig, Georgi, 1901; *Die Darwinsche Theorie, Gemeinverständliche Vorlesungen*, Leipzig, G. Thieme, 1903).

Weismann has maintained firm opposition to Lamarckism, preserving the rigid character of the ultra-Darwinist (neo-Darwinist) and his doctrine, that of ultra-Darwinism, which admits the omnipotence of selection exclusively (A. Weismann, *Vorträge über Deszendenztheorie*, Jena, Fischer, 1902; 2 ed., 1904).

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[1] The Hon. Dr. Brunelli, assistant to Prof. Grassi, collaborated with me in these researches in 1909.

On the other hand, the new Lamarckism has found several supporters, and has received an effective stimulus from the work of Pauly defending an "autoteleology of organisms." (A. Pauly, *Darwinismus und Lamarckismus*, München, Reinhardt, 1905.)

Together with Lamarckism there has occurred a revival of psychic neovitalism.[2]

In the evolutionary crisis, neovitalism assumes diverse and complex forms: it is agnostic with G. Wolff, metaphysical and transcendental with Driesch, Hartmann and Reinke, psychical with Pauly, Francé, Wagner (on this see Plate, L. *Selectionsprinzip und Probleme der Artbildung, Ein Handbuch des Darwinismus*, 3 ed., Leipzig, Engelmann, 1908; and also Driesch, *Der Vitalismus als Geschichte und als Lehre*, Leipzig, Barth, 1905).

The frankly Darwinistic trend which aligns by the side of selection the traditional Lamarckian view, is represented by few, and finds its chief supporters in Haeckel and in Plate (*op. cit.*), whose treatise summarizes in clear fashion the present state of the evolutionist doctrine.

In the crisis of Darwinism there must be noted the position assumed by the embryologist Oscar Hertwig as regards the "fundamental biogenetic laws." The doubts expressed concerning the aforementioned law mark a critical phase of evolution and of morphology.

The difficulty of delineating the phylogenetic development of types persists and becomes accentuated, and the uncertainty of this important matter is reflected in the revolutionary opinions of Friedmann, Steinmann, and other authors. On the one hand Friedmann raises from a new point of view the analogy (considered secondary to the fashion of the evolutionists) to a substantial principle, admitting that each form has its archetype and that the apparent relationships are due to a secondary convergence (H. Friedmann, *Die Konwergenz der Organismen*, Berlin, Paetel, 1904); on the other hand Steinmann, rightly called the Nietzsche of paleontology, opposes to the monophyletism of the evolutionists an unrestricted polyphyletism. According to Steinmann, no group of animals or plants goes back to a primitive form, none had its origin at some one time; our system is in open contradiction with the phylogenetic process, and that which appears in the system as a unity is not so phylogenetically (G. Steinmann, *Die geologischen Grundlagen der Abstammungslehre*, Leipzig, Engelmann, 1908).

From the point of view of originality, the greatest event in evolution is certainly the theory of mutations of Hugo de Vries; aside from its intrinsic worth it has promoted that experimental research in variations [3] with which modern biology has occupied itself in such a marked degree.

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[2] See on this argument the new work of A. Wagner, *Geschichte des Lamarckismus* (Stuttgart, 1909); the insufficiency of the doctrine of selection is here shown, and an appeal made for psychic vitalism.

The theory of mutations has reduced the importance of the factor of "selection," without, however, eliminating it, as has been erroneously stated by some.

De Vries based his doctrine of mutations on the study of the *Œnothera Lamarckiana*, a garden plant common in Europe, and one which he found growing wild in a locality near Amsterdam.

The essential points evolved by De Vries [4] are these:

> 1. The new elementary species (mutations) appear *ex abrupto*, without intermediaries, from the original form.
> 2. They appear beside the principal form and develop with it.
> 3. They immediately show absolute constancy.
> 4. Some of the new lines are evidently of the elementary species, but others must be considered of the regressive variety.
> 5. The elementary species appear in a large number of individuals.
> 6. The mutations occur in every direction.
> 7. The mutability manifests itself periodically.

As regards the significance of devoting one's self to extreme mutations, "abrupt variations" (the "sports" of Darwin), it is to be noted that De Vries admits that they result from intense work continued through several generations, and the effects of which, without being apparent, accumulate to manifest themselves to the eye. The period of "mutation" is preceded by a period of "premutation." The new character, then, is preëxistent in the plant as a "tendency," and the external influences do nothing but render actual this tendency.

Mutation implies the appearance of an absolutely new character; on the contrary, the variation arises from the exaggeration or from the suppression of an already existing characteristic.

That which distinguishes the mutations is that the individual variations (fluctuations), that is, the variability which Darwin considered necessary for selection to explain itself, has no importance in phyletic development. According to De Vries, selection in the fluctuations cannot lead to the formation of a new stable species, and the function of selection is limited to the elimination of the mutations least likely to survive.

The mutation is a variation, either strong or weak, which appears abruptly in the species, is transmissible without attenuation, and once produced is independent of the means.

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[3] An impulse was also given by the reconfirmation of the laws of hybridism explained by the celebrated Gregory Mendel in a memoir which remained forgotten for a long time, and whose importance has only recently been rediscovered by De Vries, Correns, and others.

[4] H. De Vries, *Die Mutationstheorie*, Vols. I-II (Leipzig, Veit & Co., 1901; 1903); *Arten und Varietäten und ihre Enstehung durch Mutation* (Berlin, Bornträger, 1906).

An interesting criticism of the doctrine of De Vries is found in Plate (*op. cit.*). He maintains that the doctrine of De Vries cannot actually be placed in opposition to that of Darwin (the theory of mutations would only be a theory of modified selection), and De Vries in substance had misrepresented Darwin's conception of individual variation or fluctuation.

This question being disposed of, there remains the doubt that the *Œnothera Lamarckiana* is a bastard, and that the "mutations" are nothing but analytical varieties (Bateson) derived from a preceding crossing. A very interesting discussion on a similar subject is presented by Lotsy (F. P. Lotsy, *Vorlesungen über Deszendenztheorien*, Parts I-II, Jena, Fischer, 1906-8).

Certainly the fact that the *Œnothera Lamarckiana* is not known leaves many doubts upon this point; moreover in the animal kingdom the doctrine of mutations has not yet obtained its proofs, although some cases exist which seem to be mutations. The problem of the origin of species cannot be said to be near positive definition, although the experiments of De Vries mark a memorable date on the road to its solution.

Among those who seek to reconcile evolution with creation, the Jesuit Wasmann must be remembered chiefly, he who is also a zoölogist of recognized merit and has expounded his ideas in a work on modern biology (E. Wasmann, *Die moderne Biologie und die Entwicklungstheorie*, 3 ed., Freiburg i. B., 1906. The second edition has been translated into Italian and annotated by Gemelli, Soc. Editr. Fiorentina, Florence).

Wasmann does not deny evolution within certain limits; on the contrary, he supports evolution of the systematic species with arguments drawn in part from his own original studies. He strives to show that the hypothesis of a phylogenesis of the systematic species conforms directly with the Copernican cosmogony, with the ideas of Kant and Laplace; to the geologic evolution of our planet there is united a biologic evolution. He postulates a mediate or immediate action of the Creator in order to explain the origin of the first organisms and thus seeks to harmonize the "Creation" with evolution. He maintains that there is an internal capacity for change in organisms, and that this capacity, in the last analysis, was placed by the Creator in the nature of the prototypes; without it, the external causes of evolution would be ineffectual and useless.

Furthermore Wasmann holds that without this first cause the formation of organisms from inorganic matter would be quite impossible, and therefore an evolution of the organic world would also be impossible. Therefore one must admit the formation of man to be an intervention of the Creator, that is, a real art of creation through the human spirit. These ideas of Wasmann aroused lively discussions with Plate, Haeckel, Dahl and other evolutionists in Germany. Certainly among the evolutionists who accept creation Wasmann has taken a positive stand, defending it with great erudition.

On the propagation of life in the universe, the famous chemist

Arrhenius has written an interesting chapter in his work: *Das Werden der Welten.*[5]

In general, it is known that hitherto all attempts to vitalize dead matter have failed, the recent experiment of the "bioradio" of Burke being among the latest of these attempts. To explain the origin of life many modern authors, as is well known, advance the hypothesis of "panspermia," according to which living germs go traveling through space.

This hypothesis, which has its precursor in Sales-Guyon de Montlivault, Richter, Flammarion, etc., acquired greater credence after the great physicist, Sir William Thompson (Lord Kelvin) in his presidential address (1871) before the British Association, sustained the possibility of the numerous meteoric rocks being carriers of germs which wander in space. On this argument one might consult the work of the Berlin astronomer, Meyer (*Die Entstehung der Erde und der Irdischen*, 5 ed., Berlin, 1904).

In relation to this passage of the germs from planet to planet by means of meteors, Arrhenius does not share the optimism of Lord Kelvin, and raises numerous objections to the hypothesis. He thinks that the question of panspermia would enter into a much more fruitful field through knowledge of "pressure of radiations." Arrhenius points out before all that there are germs small enough for the pressure of solar radiations to propel them through space; he seeks to show that the conditions with which the spores have to deal during their passages through space are such that their germinative power is not destroyed. In these calculations Arrhenius naturally conformed to the facts worked out by biologists on the spores of bacteria.

Arrhenius seeks to show how the germs from the earth and from the other inhabited planets could be projected into space and reach other parts of the planetary system. Naturally a great number of germs will probably perish because of the intense cold of infinite space, or on celestial bodies where conditions are not favorable for the maintenance of life, but others will reach their destination. The possibility of germs being carried from one planetary system to another is also maintained by Arrhenius. To comprehend this it must be recalled that, according to the author, in the neighborhood of the sun the germs light upon particles whose weight is a bit heavier than the repulsive force of the pressure of the radiations, and therefore as they turn toward the sun through the force of gravitation they cross the orbits of the planets and fall into their atmosphere. On the other hand, too, those germs which are not stopped by these particles would be brought to other solar systems, would be stopped by the radiations from these suns, would encounter particles whose weight is greater than the repulsive force of the pressure of radiations, and being drawn to them would be carried to the planets which are found about their respective suns. In this manner life could be diffused not only from planet to planet, within the same solar system, but from solar system to solar system.

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[5] S. Arrhenius, *Das Werden der Welten*, 3 ed., Leipzig, *Akademische Verlagsgesellschaft*, 1908. (The second edition has been translated into Italian; Milan, *Società editrice libraria.*)

In the last few years there appeared in Germany three periodicals dedicated to the theory of descent. They are:

The *Archiv für Rassen—und Gesellschaftsbiologie. Eine deszendenz-theoretische Zeitschrift*, München.

This periodical, founded in 1902, publishes papers of a critical and speculative nature in general, and also a bibliographical review on the evolutionary movement. It represents the pure Darwinistic school, and is headed by Plate, one of its most notable exponents.

The *Zeitschrift für den Ausbau der Entwicklungslehre*, Stuttgart.

This magazine, founded in 1907, stresses the Lamarckian trend, occupying itself with arguments related to it (finality, adaptability, reports of mechanical and physical phenomena, etc.).

The *Zeitschrift für induktive Abstammungs und Vererbungslehre*, Berlin.

This periodical, founded in September, 1908, publishes original researches on descent (origin of species, phylogeny, general research work in morphology, systematic phylogenetics, experimental research on hybridism and heredity, physico-chemical discoveries relating to evolution, etc.) and also contains an important review of the principal works on evolution, and a complete biographical index, arranged according to the fundamental arguments of the science of evolution.

A defense of the ideas of Darwin has appeared in the *Edinburgh Review* (January, 1909), drawing light and warmth from the centenary of the great naturalist, which reasserts faith in his doctrines. The reasoning of the writer in the *Edinburgh Review* is based chiefly on the following works: *Recent Progress in the Study of Variation, Heredity, and Evolution,* by Robert Heath Locke (London; Murray, 1906); *Heredity*, by Arthur Thomson (London, Murray, 1908); *Essays on Evolution*, 1889-1907, by Edward Bagnall Poulton (Oxford, Clarendon Press, 1908). The article in the *Edinburgh Review* deserves a long summary; it examines the Mendelian theory basically, meets and seeks to annul the objection on the antiquity of the earth, since the time required for the evolution of the highest types of organisms now existing exceeds the habitable age of the earth, according to geologic calculations.

The time assigned by Lord Kelvin for the existence of the earth in a form habitable for living beings is not more than one hundred million years.

This objection disturbed Darwin, and was employed by Lord Salisbury in his great speech in 1894 to the British Association. He concurs in the belief that the sun could not be older than five hundred million years, to which George Darwin and Lord Kelvin agreed.

Now without the warmth of the sun life could not exist on the earth, and five hundred million years is not sufficient for the evolution of the higher forms of life. But nowadays the discovery of radium, whose existence and illuminative power antedates the sun, has yielded this new fountain of energy to the evolution of life on the earth.

We recite these things easily, drawing these observations from Prof. Poulton [6] but we have not the ability to pronounce a judgment. But in our turn we ask, Who can?

Certain it is that the "irreligious force" of Darwin's book grows more and more insignificant; its effects at its first appearance having been accepted or rejected more for philosophic reasons than because of an examination of the doctrine *in sé e per sè*. To-day, the theological and anti-theological passions having spent themselves, we must pay tribute to the greatness of Darwin's studies and the immensity of the research to which he has given stimulus and direction. But the mystery of the origins of life remains more obscure than ever; the mystery of the transition of something not alive to that which lives. If life is the result of a preordained plan of a Creator, then it must be admitted with equal facility that he has sown within it the organic conditions of its evolution. If a preordained plan does not exist, how can the change from inorganic to organic life be explained? What is the last form of the "non-living" which gives birth to the first form of the "living"? And how are beings evolved one from the other? And why do they no longer evolve in this extraordinary fashion? Such questions still remain without scientific answers. Therefore the proponents of a design in creation are at least as far as the learned scholars from knowing all about the genesis of species!

APPENDIX XII

A STRANGE CASE OF STATE INTERFERENCE IN THE DOCTRINE OF THE ANGLICAN CHURCH

IN 1847 the Lord Chancellor presented the Reverend Mr. Gorham with the ecclesiastical benefice of Bramford Speke in the diocese of Exeter. The bishop of that diocese, suspecting Gorham of harboring ideas of a heretical sect, subjected him to a long doctrinal examination. In fact, he at length decided that Gorham was heretical as regards the doctrine of "baptismal regeneration," and refused to appoint him to the benefice to which he had been recommended. Gorham then brought suit against the bishop in the Court of Arches, and having lost his case appealed to the Judicial Committee of the Privy Council.

The dispute spread and excited many people. The party of the bishop, or rather that of the High Church, maintained that the simple act of baptism conferred regeneration and washed away original sin. Gorham and his followers (the evangelicals) answered that regeneration takes place only if the baptism is received "well." Now the word "well" in this connection means that the candidate for baptismal regeneration must deserve it, and he cannot deserve it without faith and repentance. At the same time, how can a new-born child be in a state of faith and repentance? And here Gorham answered: God bestows a preventive grace, without which the act of baptism is ineffectual. He himself, however, confessed that he did not know how to decide to whom and under what conditions this preventive grace is accorded.

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[6] Essays on Evolution.

But another and yet more fundamental question than this same "baptismal regeneration" was involved in the case of Gorham. A law passed in 1833 had constituted the Judicial Committee of the Privy Council the supreme court of appeal in such cases, the committee being composed solely of laymen. It was clear, then, that the supremacy of the sovereign did indeed exist, and that an assembly of lawyers named by the crown had the right to formulate the doctrine of the Church of England.

This committee at length gave its decision in the aforementioned case, and reversing the decision of the Court of Arches supported the viewpoint of Gorham.

> Whether his ideas are theologically correct or not, [they said,] is here irrelevant. But we can decide whether the opinions discussed are contrary or repugnant to the doctrine of the Church of England as presented to the clergy by its Articles, Formulations and Rubrics. And we have come to the conclusion that the opinion of Gorham is not contrary to the doctrine of the Church of England.

This judgment of the Judicial Committee of the Privy Council, pronounced in 1850, holds even to-day; even now a pastor of the Church of England is free to believe that regeneration does not always take place when a baby is baptized.

The blow this occurrence gave Manning[1] was intense, says his biographer. Not only was the supreme efficacy of the sign of the cross on the forehead of the babe one of his favorite doctrines, but until that day he had believed that the supremacy of the sovereign was a temporary usurpation which left the spiritual dominion of the church essentially intact. Now the horrible reality manifested itself: a law of Parliament voted for by Jews, Catholics and Dissenters was the final authority which decided upon important details of the Anglican faith.

It was precisely this fact which determined Manning (who had already taken part in the Oxford Movement and had been assailed by profound doubts for many years) to leave the Anglican church, to abandon the archdeaconate of Chichester and his splendid career. However, he hoped to remain a clergyman; he was profoundly convinced of the validity of the Anglican ordination. And when the priest who received him into the Roman Catholic brotherhood told him that he was no longer a clergyman, he rebelled. Then came the adjustment and he began anew as a seminarist. But fourteen years later the seminarist was the Archbishop of Westminster and the supreme governor of the Roman Catholic Church in England.

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[1] Lytton Strachey, *Eminent Victorians* (Cardinal Manning), London, Chatto and Windus, 1924.

The Anglican church, as we have seen, is even to-day entirely dependent upon the state. The President of the Council selects the bishops. The ecclesiastical laws emanate from Parliament. The sanction of a law of the state is also necessary for a general change in the liturgy. The so-called High Church movement is a struggle against this dependence, and for the dignified liberation of the church from all other powers. Arisen a century ago, and reawakened to new and more fruitful vigor after the war, this trend in Anglicanism is very similar to the Roman church. It numbers among its adherents some of the most serious and profound priests, and enjoys the sympathy of almost all the great dignitaries of the Anglican church. The evangelicals are aroused to a fierce, desperate conflict, for they accuse the movement of too much ritualism and of "Romanizing" the Anglican church. But according to the prophecies of careful observers, and that mystical tendency which exists in England too, the future in that country probably belongs to it.

APPENDIX XIII

THE RELIGIOUS MIND OF GERMANY AND THE COUNCIL OF STOCKHOLM

THE anxiety of believers in the search for truth has always divided Christianity into numerous sects, and the evangelical family has been subject to continuous splitting, even more than the others. But the German Evangelical branch finds itself in a particularly critical situation. "Disunited itself, it has partly lost contact with the population which struggles and strives. It lacks organization and cohesion founded upon authority," says Z. P. K. in a sincere article appearing in the *Deutsche Allgemeine Zeitung*, "and since the renunciation of authority leads to disintegration, Germany has no national church but national churches, and the German constitution is not the expression of a united faith but of a political compromise. Various differences in rite and dogma of the Evangelicals have an historical, traditional significance but are no longer justifiable."

Even in Germany some mild and far-seeing spirits foretell the reunion of the evangelical churches into a true church. But what with the errant impulses of the spirits and the uncertain sighs, with the vague groping in the search for truth, such an ideal seems enveloped in the clouds of a doubtful future. They attach themselves to the Indo-Christian-European fusions of Keyserling for the education of chosen minds, occultism, the theosophy of Rudolf Steiner, pietism, the religious liberalism of several disciples of Harnack, monism, pseudo-Buddhist philosophy, various mysticisms which are successors of materialisms, of intellectualisms, of every type of skepticism—currents which seem opposed to church stability, to the discipline of beliefs and of rites, and are more adapted to destroy the secular churches than to strengthen or combine them. Perhaps Germany must arouse herself from the fatigue, from the exhaustion, into which humiliations and defeats have plunged her, before canalizing all these diverse currents, before thinking of vast ideals of reorganization and combination. But the tendencies and attempts of the various churches are initial examples and are everywhere evident.

Looking at the external aspects, it is evident how rude a blow the revolution has inflicted upon the constitution of the church; with it has fallen its character as a state church. Throughout Germany the ecclesiastical constitution was rigorously bound to the civil government, the princes being also the bishops of the state church. But the princes fell, and with them not a few supporters and various institutions. The Evangelical church was thus constrained to adapt itself to a new order. At the same time the statute of the Reich decreed the separation of church and state. All the civil appropriations for religious purposes ceased abruptly. They paid the theological faculties at the universities, but the separation was complete. Hundreds of thousands of persons leaving their religious congregations was one of the first consequences. To-day there are national churches with their own presidents, and besides these numerous sects (according to some about two hundred).[1] The attempt to make the religion a goodly community again is, however, stubborn and continuous, and after the example set by the Catholic church it strives to give more warmth to its bare rites and is making a solemn liturgy.

During the first years after the war three possibilities for reorganization presented themselves: [2]

> To create throughout Germany confessional churches (Lutheran, Reformed, Orthodox, Liberal, etc.), or to follow the previous system of churches in separate states, continuing to maintain the confines of the ecclesiastical zones, whose constitutions would be made by the communities, without the princes; or else, finally, a mixture of the two systems as occurs in England, where the independent sects and the state church are coexistent. They preserved the state churches, but another constitution was made. Thus a healthy historical judgment conquered the opposition of theory and creed. Moreover, all these churches are forced together more strongly than before in a "Law of the Evangelical German Churches" (besides the "Law of the Free Protestants," or rather of the religious associations which do not depend upon the state); the knot is not well tied, and it is far from resembling the unitary strength of the Catholic church. But two things in the new constitution were sources of difficulty for the churches. First, the enormous depression of money, which, threatening all intellectual life with ruin, also affected the single churches. Secondly, under the guidance of the majorities in the parliaments of

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[1] See at the end of this Appendix a brief note on the chief German sects.

[2] "The Present State of Religious Life in Germany and Its Most Important Tendencies," by Prof. Heinrich Weinel of Jena, *Hibbert Journal*, January, 1924.

> the various states, the government subsidies had been withdrawn without allowing the churches time to secure themselves against want. The clergy of Thuringia, Brunswick and Saxony were plunged into the greatest misery. In Prussia, in Bavaria and another state or so, the government has treated the churches more generously; but even these are undergoing no slight difficulties.

The depression of the currency having been curbed, due to the Dawes Plan, and Germany having regained a sound circulation, the financial condition of its churches could be improved. But in the darker days many supporters had joined foreign religious congregations, especially in Scandinavia and the United States.

As far as the relation between the Catholic church and the state is concerned, the war and the revolution have not as yet fundamentally affected it. In Bavaria a concordat establishing reciprocal relations was concluded. In Prussia the old concordat, which legally has no validity, is in fact quietly still in force. Negotiations are under way for a new concordat which should take cognizance of these changed conditions; and the difficulties are not slight.

The external situation of the churches is therefore slightly changed after the storm, but spirit and faith have endured the strong shocks. As in politics, a great many persons have passed to extremes, the extremes of right and of left. The path of the center is passed by, notwithstanding the efforts of the apostles of Christian idealism (Eucken and Harnack), both still fighting. But the more the people advance toward the extremes, the more the middle classes tend to return to the conservative spirit.

Among the many trends manifested in the churches, the new fervor has given life to a theological longing turned forcibly against orthodoxy and liberal theology. It sponsors critical investigation. With such radicalism it returns to Luther, to the thought of the sole grace of God and to absolute lack of hope in things human, thus interpreting the Reformation in a one-sided fashion. It clings to the sad God which appears in his treatise, *De Servo Arbitrio.* All human culture is repudiated as ungodly. Religion itself is imagination; the only reality which exists is God. The movement is derived from the Swiss pastor Kutter. In Germany it was welcomed by the socialistic element. It includes men of great worth and has already acquired much influence. "The old idealistic liberalism now appears too fatigued and superficial, not adapted to the melancholy and violence of life, too quick to compromise. Only to God is due power, honor, glory; man is but a miserable sinner. A deep seriousness is at the bottom of this movement, full of promise." [3]

We must not pass over in silence the school which labels itself "High Church," akin to the English movement. It leans toward Catholicism and the second president has joined Rome. The actual head, full of refined

[3] Weinel.

talent, contemplates intertwining life with sacramental, mystical rites, with the most beautiful musical and æsthetic forms. Many young German theologians have allied themselves with this movement.

Lastly, there is a Quaker trend. Their society has won hearts because of the pious service rendered to the German people during the war rather than with its message.

In this renascence of the religious spirit and in these efforts of the churches to adapt themselves to the restless minds of the faithful and to reorganize themselves, there emerge statistics classifying the German people religiously.[4] We note here the statistics of 1922, according to which Germany (the Saar being included) had, of 62,036,000 inhabitants, 38,117,295 Evangelicals (or 65.21 per cent), 19,326,396 Catholics and according to other computations 20,833,287 (about 33 per cent), 538,912 Jews (or .92 per cent) and 472,132 belonging to other faiths (or .81 per cent).

However, the schools are not distributed in the same proportion. Of 33,281 public elementary schools in Prussia, 23,159 were in 1921 Evangelical, 8,638 Catholic, 153 Hebrew, and 1,331 of various other sects. Furthermore the Catholics complain of discrimination against them in public offices. In 1910 of 27,288 higher officials of Prussia, 21,314 (78.2 per cent) were Evangelicals and 5,255 (19.3 per cent) Catholics, although the Catholics are 36.3 per cent of the total population. The disproportion is even greater in other positions; and it seems that the situation is not changed even to-day, since in the Prussian Department of Education, for example, there are only seven Catholic higher officials, and none has ever achieved the position of cabinet minister. In the General Agency of Primary Education, although Prussia has two million Catholic elementary students, about 35 per cent of the total number of pupils, there is only one Catholic councilor in a body of eleven such officials.

Also noteworthy is the transferences of believers from one faith to another. Even the Catholics have lost heavily. In 1922, for example, 7,589 Evangelicals or others entered into its pale, and 24,496 left it. In 1923, 7,618 entered and 18,074 left. In previous years the desertions were even greater, considering that in 1920 they reached the highest figure, 44,704. Summarizing, from 1919 through 1923, there have occurred in Germany 161,567 departures from the Catholic church, compensated slightly by 41,834 entering and 5,217 returning. As for the Evangelicals the separation was already noticeable in 1908; from that year to 1923 about 1,147,000 Evangelicals severed their connection with the national church.

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[4] I have obtained this information from two important works belonging to different authors: *The Ecclesiastical Manual* (*Kirchliches Handbuch*) which the Jesuit Father H. A. Krose compiles periodically, and which also appeared this year, printed by the publisher Herder at Freiburg in Breisgau; and the *Ecclesiastical Annual* (*Kirchliches Jahrbuch*) by Dr. J. Schneider (an evangelical) printed by the publisher Bertelsmann at Gütersloh. Both are accurate and clear.

Here are a few significant statistics:

EVANGELICALS ENTERING THE CATHOLIC CHURCH	CATHOLICS ENTERING THE EVANGELICAL CHURCH
1910: 4,992	1910: 8,328
1913: 5,332	1913: 8,597
1916: 3,647	1916: 5,267
1919: 7,295	1919: 9,154
1920: 8,570	1920: 11,017
1923: 7,245	1923: 9,547

The change is often due to intermarriage and to the fact that they (the Catholics) are worse off socially and economically in the immense territory of the Diaspora. Then, too, the Catholic population of Germany has suffered cruelly from the loss of the frontier zones. And while before the war, in the course of a natural increase, it would probably have reached two-fifths of the population, it has fallen now to less than a third. Not a few Catholics pass into the ranks of free thought. Still, the trend toward the Catholic church is becoming more noticeable each year. And particularly noteworthy is the renascence of religious life in the Catholic church itself. Many are forecasting a new blooming, full of promise, but others are more skeptical in their prophecies.

The various churches of Germany continue their proselytism by a vast network of missions among the heathen, with various institutions of a benevolent and helpful nature among the faithful in the national territory itself, and with propaganda among the other sects. There are even missions for the Jews, whom the Germans do not treat with the justice befitting a great people, a people who wish to be in the forefront of all forms of spiritual liberty. And when a humane prelate,[5] after the Bavarian events which culminated in the exclusion of Jewish colonists coming from eastern Europe, drew the attention of the Chancellor of the Reich, in a speech, to the dangers liable to arise from blind hatred against the Israelitish peasants, the extremists of nationalism declared war in their battle-cry, not only against Judaism, but also against the red and black internationalism (Marxism and Vatican ultramontanism) which they consider allied with Judaism against Germany. But even German Judaism is regaining its mystical spirit; it has passed through a period of rejuvenation and reorganization, and beside rabbinical orthodoxy there are ranged other trends which would lead the sterile nationalism of reformed Judaism back to a positive religion. Martin Buber is one of the most fervid apostles of this renascence, which honestly wishes to do justice (from the Hebrew point of view) to the Gospels, eschewing all prejudices. But this newborn Hebrew fervor naturally makes the tasks of the missions which propose to propagate the Christian faith among the Jews even more difficult.

The German missions, both Evangelical and Catholic, among the heathen, suffered a rude blow from the war, which threatened to eradicate them. Then came the Treaty of Versailles, which gave the conquerors the right to expel or maintain the German missionaries in their positions; this right has been used differently by the countries concerned. The United States, Canada and South Africa have not availed themselves of it, and have treated them benevolently; Australia has allowed the German missionaries to remain on the islands assigned to them for seven more years; Belgium and Portugal have not taken any reprisals in Africa, and lastly France, which according to the Germans has shown no consideration, has allowed all exceptions. On the other hand, Germany complains of England, which has enforced the treaty strictly in the German colonies ceded to her, a little less strictly in the rest of Africa and in India. But since June, 1924, she has ceased to avail herself of this attitude toward the missions (except in India) and has begun to confer the same treatment upon Briton and stranger alike. India has decreed the exclusion of German missionaries for five years, and this period has not yet expired.

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[5] The archbishop of Monaco-Freising, Cardinal von Faulhaber.

But besides reasons of a political nature, the German missions have suffered severely from the financial catastrophe of the mother country, which makes it impossible for them to keep up the fields of action which remain to them. The foreign sister-missions, particularly the Dutch, American and English, have helped support them, and now, with the return of a sound currency, they will slowly recover.

To-day they display their chief activity in four fields: South Africa, Dutch India, China and Surinam. In China the German missionaries work beside their American and English colleagues. Dr. Knack has placed in strong relief the originality of the Anglo-Saxon missions:

> The immense prevalence of the Anglo-Saxons in the Protestant missionary world is a danger to German action. The world-wide English empire and American cultural imperialism have made gigantic strides from the outbreak of the war and after the victory had been won; without careful guardianship the Evangelical missionary world runs the risk of falling behind (or rather of remaining behind) the Anglo-Saxons.

Henry Frick thus defines the Anglo-Saxon conception of the Kingdom of God: "A social order which we must institute on earth according to divine laws. The tendency of drawing the whole world into the sphere of its own ideas, which means imposing its own ideas upon others, whence in the union with Christian ideas it will find its justification." The American constitution is the most excellent, the most adaptable for Christianity, since it deals with the participation of all peoples in this beatitude of a Christian democracy. The old-style German missions wish to preach the Gospel with unilaterality; that is, the unilaterality in whose midst Luther placed the myth of justification of the sinner through faith. In the face of the diminution of the Gospel in moral and cultural propaganda, and in social work, the German missions would place in evidence the central thought of the Gospel, the word of the Cross, the prayer of faith and of conversion. In this manner it is inevitably opposed to the average Anglo-Saxon missions, especially of the Americans with their cultural optimism and modernistic tendencies.

This diverse conception of the task of the missions will manifest itself in clearer light in the near future when they will find themselves before the most important problem of all their work, the problem of the national churches. The sentiment of race, of nationality, has awakened powerfully in India, in China, in Japan, in South Africa, in Sumatra and in Surinam. Among the native Christians this reawakening of nationalistic sentiment expresses itself in a violent desire for ecclesiastical independence. Therefore the Evangelical mission is entering a new field of activity: the formation of popular and national independent churches. Indeed the German missions have always aimed at this goal, placing with great care foundations for the future national churches, they say. But they did not expect so rapid an evolution. In India a pan-Hindu national church is already spoken of, in China a Chinese church, whose formation the indigenous Christians themselves will take in hand. It is obvious, observe the Germans, that the native Christians of such countries as these do not wish their churches to be mere imitations of the Western churches with their peculiarity of confession, of statutes, of liturgical forms and ecclesiastical costumes; they certainly wish to become independent and national impressions of Christianity.

The domination of the social and democratic party has violently accelerated the secularizations of the German school. Thus the plan of school laws for the Reich (*Reichsschulgesetzentwurf*) had in the years 1922 and 1923 a slow and difficult path to the Reichstag. The elections of March 4, 1924, brought a favorably disposed majority to the protection of the confessional schools through state laws, and the plan would have succeeded had not the *Deutscher Lehrerverein* (the German teachers' association) conducted a bitter campaign against it, declaring in the convention of Würzburg (August, 1923) "against the attempt manifested in the Thirtieth Commission of the Reichstag, which," according to the Union, "weakens the internal unity of the German people and wishes to favor the special schools at the expense of the common schools, to divide scholastic instruction and surveillance with the religions, and to place the teachers in an intolerable dependence."

Later the same association, in a petition to the Reichstag, asked that the following sentence be expunged from the measures before them: "The common school (*Die Gemeinschaftsschule*) must stress in teaching and education the elements of the German national culture derived from Christianity," thus declaring for the neutral type of school. And then at the thirty-second convention at Breslau, it warned the Reichstag "that it was opposed to the ecclesiastical and political factions usurping the right of guardians of the school to put it to the service of their own prejudiced factional views, and thus damage the unity of the popular German culture."

In the Teachers' Association of Germany the Saxon section (*Sächsischer Lehrerverein*) is the most determined group in the struggle against the sectarian school, and its majority has always had a very radical point of view. However, one minority is moderate and favorable to religious instruction given by the teacher without ecclesiastical supervision, while the other extreme minorities consider the sectarian school hostile to the working classes and friendly to capitalism, and they think that religion is no longer necessary for education. "Only with the education of worldly, well-informed men will the miseries of the present be overcome. Children no longer belong to the family but to the great federations, and with them to the public life." In this same vein the *Arbeitsgemeinschaft sozialdemokratischer Lehrer* works, its scholastic program comprising the following thought: "The politics of school and education must supplement the economic class struggle of the social democracy." In the Prussian Landtag, in the spring of 1923, the communists joined in maintaining that the school must take under its guardianship children from the age of eight to fourteen, giving them food and lodging, thus substituting itself for the family. But the whole secular system has given rise to many serious matters in Thuringia and elsewhere.

The Teachers' Association of Saxony comprised 18,102 members in 1902. Its attitude has always strongly influenced the scholastic struggle in Saxony, but the whole spirit of the great German Teachers' Association (140,000 members) has turned strongly toward radicalism. Until 1905 it had declared the necessity for reforming religious education. In 1908 it had expressed agreement with the Theses of Zwickau (*Zwickauer Thesen*) of which the following are the most important: First, religion is a matter for special instruction, and religious instruction must be independent of the elementary school. Second, it has the task of instilling in the child the teachings of Jesus. Third, it is necessary to do away with ecclesiastical supervision of religious instruction. Fourth, religious teaching is in substance historical teaching. Fifth, the elementary school must not accept systematic or dogmatic instruction.

This attitude continued to develop in a radical way until 1919 when the Theses of Zwickau were superseded by the Theses of Lipsia. This is their tenor:

> . . . We demand a secular elementary school. We retain the education of the moral personality as still the task of the entire scholastic curriculum. We reject the tendency of influencing youth in the meaning of a religious faith. We profess the task of fixing the moral education of the children on the prospect of models drawn from the history of humanity, of presenting the cultural, religious, universal patrimony with objective instruction in religious history, to aid in the formation of an independent conception of the world. But all this is peculiarly a pedagogical question. Therefore we reject the efforts of the church to collaborate or supervise, and we pledge

> to the religious communities, to those outside the school, the religious instruction of the children.

Then, notwithstanding the constitution of Weimar, the Teachers' Association of Saxony again entered the field of the secular school in 1919 and 1921. Thus it happened at Dresden in 1924, where its members (95.5 per cent) continued to declare themselves against religious instruction. And while the Theses of Zwickau, although not admitting the dogmatic truth, speak of Jesus, the Theses of Lipsia contain no traces of Christianity.

In all these regions, to a greater or lesser degree, Christian scholars have suffered from the imposition of secular schools. In Thuringia, Greil, the Minister of Instruction, had placed the schools, without any consideration, in the service of the ideas of the social-naturalists (now he is gone and his successor is more moderate); Saxony had experienced even worse conditions under Minister Fleissner. Not only was any religious trace prohibited in the Evangelical schools then, but in the Catholic schools too (these as the schools of the minority had kept their religious character); occurred then the famous strikes, so full of pain and so calamitous to the sanctity and peace of the schools. The successor of Fleissner is also a moderate and has agreed to more tolerant measures. The third German state which had to endure a very serious struggle was Braunschweig, where Minis Grotewohl had declared the Evangelical-Lutheran religious schools of the country free in 1922. Prayers, religious instruction, and other manifestations were severely prohibited. A revolution of parents in 1924 changed this state of things somewhat.

Bavaria has raised a question of principle: the revision of the constitution of Weimar, and the petition that the separate states decide for themselves in scholastic questions, although allowing the Reich the regulation of the frequency and duration of school, legislation regulating religious instruction in secondary schools, the decision of the rights of parents to decide upon moral education, etc. But the Bavarian people has expressed its determination "to be the master of its soul and of the soul of the state." And like a Christian people, in questions of culture "they are unwilling to depend upon the political forces which often dominate the Reich."

In Thuringia, too, the new block of the citizens' union is seeking to heal the wounds inflicted upon the school by the former social-communistic governor.

Against this trend toward complete emancipation, against the social-democracy which would educate for independence in religious matters, the efforts of the faithful are arising everywhere, the reaction and the rebellion of the parents are beginning, and the zealous work of the private sectarian schools—to stir up the growing opposition, to build dikes against the radical seas. And upon them will depend whether the *Reichsschulgesetz*, which has been shelved for a long time, will return for discussion to the Reichstag and whether the stability of the sectarian school will be legally established, as Article 142, 2 intends.

The election of parents as councilors, too, which took place in Saxony at the beginning of the school year 1923-1924, has given a great increase to the Christian list. At Lipsia, for example, the situation is already changed. In 1922 the sponsors of the lay school were 428 and of the Christian school 395; in 1923 those of the Christian school numbered 404 and those of the lay school 395. In the elections at Dresden, Chemnitz and Altenburg 875 declared for the Christian school and 761 for the lay school. Moreover the Christian list has won practically everywhere in Prussia. On the other hand, at Hamburg the Evangelical Union of parents had only 426 seats, while the opposing list had 1,097. To sum up then, the Evangelical population of Germany is opposed to the new ideas and wishes to preserve the principles of the past. Berlin also has several *Sammelschulen* or schools composed of children who cannot attend religious instruction.

In all, the actual situation shows a remarkable improvement over the years immediately following the war, and the attempts to return to the old, growing stronger, are giving signs of some result, as for example in Baden, where compulsory religious instruction has been introduced in the commercial and business schools.

Paralleling these efforts of the Evangelical believers is the work of the German Catholics. These, not oversatisfied with the treatment they receive in various states, complain that the governments in their search for novelty are making the schools vacillate, without any aim, without any rest, without any constancy. They complain in Hessen, in other states, even Prussia, where indications are improving. No Catholic, for example, holds an executive position in the Cabinet. The establishment and maintenance of Catholic schools for the minority meets no slight difficulties. The Catholics consider the situation as a silent *Kulturkampf*, systematically conducted toward a fixed goal.

However, in the difficulties and the actual conflicts, the spirit of the faithful is open to a great hope: the *Reichsschulgesetz* has been drawn from oblivion and reported for discussion.[6] And the *Deutscher Katho-*

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[6] The Reich had presented this school law to the separate states that they might express their opinion, and in November, 1925, it was to be carried to the Reichstag. But the states having declared that the time for examination was too short, the November date has not been held to.

In the meantime news reaches me of the discussions taking place in the Landtag during last November. In Prussia the Right has called upon the Left for a declaration relative to liberty of conscience, maintaining that the German people are agreed on the principle of a religious school, and that the secular has shown itself to be a flat failure. The Minister of Cults has declared that it is necessary to find a formula whereby the lay school could exist side by side and with equal rights with the sectarian school and the intersectarian school. Each community will decide, on the basis of its special requirements, what system it sees fit to adopt.

In Bavaria the popular party deems the project insufficient for the exigencies of the sectarian schools, but accepts it as a basis which will make further negotiations possible.

In the Saxon Landtag the discussion was more lively. The Democratic and Socialist party rejected it too, but expressed the desire that the government proceed to a better *likentag*, presided over by Chancellor Marx, recently expressed the opinion that the government and the Reichstag in the discussion of the school laws were truly tolerant and liberal.

Probably the movement which is going on, and which we have briefly attempted to treat, for the sectarian and lay schools, has still deeper roots, so deep that it would be permissible to speak of renewed faith and of neo-paganism.

The very recent Universal Conference of Churches called together at Stockholm in August, 1925, to discuss problems of life and work in the light of the Gospel, proposes to give a new stimulus to the reawakening of the religious spirit and mutual aid among the Christian creeds.

For the first time since the Reformation the Protestant churches are assembled for the purpose of examining together the task which has been assigned to them.

Within the last twenty years there has awakened in the churches of the whole world the consciousness of being intimately connected. The needs of our time are international needs, and the necessities of the churches cannot evade this law. And so a common labor becomes constantly more necessary, although preserving to each church its individuality. This first ecumenical congress of modern times originated in the noble mind of the Swedish Evangelical bishop, Dr. Nathan Söderblom of Upsala. For many years he dreamed of a free union of Christian churches. His worthy presidency was welcomed particularly in Germany, which remembers the charitable help received during and after the war; but the confidence he enjoys is universal. From the point of view of sociology and the history of the church it is remarkable that Sweden, the land of deeper and more spiritual Lutheranism, should be at the head of this great innovation. In like manner the Protestant world hopes that the desire of union will not spend itself in measures for external organization alone. And probably at Stockholm a new era is opening up for the churches which came from the Reformation.

The recent congress has taken place exactly sixteen centuries after the first ecumenical council at Nicea in 325 A.D. But this time dogmatic disputes are not occurring, notwithstanding the fact that the Evangelical branch of the Protestant church has been, and is yet, subject to the greatest

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regulation of the school problem, on a national basis with the common school, imbued with a firm religious spirit. The Minister of Cults has declared in favor of this judgment, and so the proposal of the people has been approved.

As for Baden and Hessen, the teachers of the two provinces, assembled in an important convention, have adopted the following resolution: "The teachers of Baden and Hessen, assembled at Weinheim, raise an energetic protest against the dissolution of the simultaneous schools which have given such good testimony in Baden and Hessen for fifty years. They reject the plan for pedagogic, political and financial reasons. The plan will reopen incurably the religious conflicts, thus destroying the feeling of religious unity; the sovereignty of the school will pass from the hands of the state to those of the sect; it will end by placing an insupportable weight on districts and communities, and lastly it will harm the juridical position of the teacher who will become an instrument in the hands of the religious sect."

fragmentation, a development due to its inherent laws. Indeed Troeltsch rightly observes that Protestantism, with its subjectivism and individualism, has probably been responsible, or at least had a decisive part, in the development of the modern world, in the formation of capitalism, etc. However the Protestant churches would be really culpable, say the sponsors of the congress, if they did not now feel the need of drawing together, not only because of insuperable necessity, but also because of the basic principles contained in the New Testament and until now placed in the background.

The preliminary work of the conference is to designate the function of the Universal Union in the friendly work of the churches, and a first step had been taken in preceding conventions and at Helsingborg in 1922.

The direction of the recent council is held by an executive committee, among whom figured, besides the Evangelical Lutheran Archbishop of Sweden, the Archbishop of Canterbury, the President of the German Evangelical Ecclesiastical Committee, the Patriarch of Constantinople, etc. Beside it sat the International Committee.

World-wide Christianity, with its 73,700,000 Protestants in Europe (40,300,000 in Germany alone), 46,900,000 in the British Empire, about 79,000,000 in the United States, with numerous groups of Greek Orthodox, was—outside the Catholic church, which was absent for dogmatic reasons—all represented at Stockholm, where it was divided into four sections: the Continental Europeans, the British, the American and the Greek Orthodox. The British Empire sent 108 delegates, Continental Europe sent 175, the United States 199, and the Greek church 85, these representatives comprising the patriarchs and the metropolitans of southern Europe, Asia Minor, many dignitaries of Sofia, and the Metropolitan of Jerusalem. In all thirty-seven peoples came together on the charming banks of the Maelar.[7] The delegations were subdivided into thirty commissions and discussed the following questions:

1. The designs of God upon humanity and the duties of the church which arise from these designs.
2. The church and economic and industrial problems.
3. The church and moral and social problems.
4. The church and international amity.
5. The church and Christian education.
6. Coöperation among the churches.

The English and American delegation treated the problem of the relations between church and industry and economics; questions of salary, of hours of work, unemployment, child labor, property, national and international coöperation, etc., illuminated from the evangelical point of view, and Germany expressed the opinion even before the congress that

[7] The Association for Religious Progress was the only Italian ethico-religious organization represented at the Congress of Stockholm, its delegate being the Honorable Giovanni Pioli, who reports the congress with great clarity in the review *Progresso Religioso.*

Christianity would, perhaps, make fixed ethical rules according to the persuasions, she said, of the Anglo-Saxon churches, while (always from the same source) German Evangelical theory is ready to soar above the intervention of the church in the special field of economics, and instead retains as its task only the preservation of the right of personality and of spiritual needs.

The German delegation, divided into many parts, has treated the vast problems of the relation of the Christian churches to modern social and moral questions; namely, marriage, the family, the relations of the sexes, the juvenile movement, criminality, alcoholism, the history of the moral problem and the exigencies which raise it in modern times, the school and education, cultural Christian politics, popular instruction, printing, etc. The German delegation (with eminent men like Dr. Deissmann) was the echo of the German Evangelical Committee (which until 1922 represented the national German churches) and of all the various liberal associations.

Perhaps the results will not be as great as the Protestant world expects. The repercussions of the war and national prejudice will restrain the impetus. But it is already a great step that the need of working together[8] has been felt. The reunion of Christianity will not perhaps be effected in the near future, but the participants in the convention justly think that Christianity should face these problems of political, economic, and social life which they must solve with the Gospel of Jesus, at the same time watching, said one of the members, lest in Christianizing the world they take paths which lead to the worldliness of Christianity.

At any rate it will never deal any more with the question of union, but only of organized collaboration, which may lead to a confederation ultimately. Concerning this, Archbishop Söderblom expressed himself in the following manner:

> The divergences must be respected. All adult individual life is characterized by differences, and we do not wish to eliminate them even though we could. We have not devoted all our energy to this sacred problem all these years in order to bring about unity, but in order to further join in a task where coöperation is necessary, since social and international problems are common to all countries and to all faiths in the circumference of our civilization. Only coöperative Christianity can effectively preserve and promote peace.

The proposal to reform the history texts of all countries, since they are too biased, and other peoples are always painted as inferior, degenerate, and barbarous, was received enthusiastically; the problem of races, of racial migration, of intermarriages between two races, was also approached. This was one of the most delicate points. I have not seen the entire speech of Professor Richter of Berlin. However, according to the reported summaries the essential points were scarcely touched, and in answer to the clear demands of the negro Bell, representing the members of his race in Africa and America (announcing the reawakening of race consciousness, which he said depended on the friendly or hostile attitude of the white race, declaring that the problem of races is not the systematization of the relations of a superior and inferior race—since they are all equal—and asserting their unwillingness to accept as absolute fact that actual state of domination of one race over the other) vague assurances were given that the church should not make any racial distinctions.

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[8] Pioli, in his account, has justly observed: "The value of the congress does not lie in that which it has accomplished, but in the fact that it existed at all, in the fact of common participation and a common goal, not only in the pathways they pass through, though by diverse ways, to attainment."

Then in its last formal act the congress extolled the magnificent connection of science with religion in Christianity, and before disbanding sent a penitential appeal to Christianity. They deplored the fact that not all the Christian churches had felt the necessity of coming to Stockholm to consider such vast and vital problems. The struggles and losses of Christianity are conducive to the humble persuasion that a Christianity divided against itself will be overwhelmed by the world.

> We admit before God and the world the sins and omissions the church has been guilty of through lack of love and religious understanding.
>
> We have realized the duty of making evangelism the decisive force in all the fields of human life, in industrial, social, political and international realms.
>
> In the field of economics, we feel that the soul is the greatest treasure, and cannot be made subservient to the obligations of the laws and mechanism of industry, that the soul has a right to its own salvation. We must therefore struggle for the complete and free evolution of the human personality. In the name of evangelism the necessity has been newly awakened that industry should not consider personal gain the only desideratum, but that in the service of the community it must think of good works as a duty which it must render to God.
>
> In place of egotistic competition there must be collaboration. Capital and labor must come to consider their participation in industry as fulfilling the same mission.
>
> All moral and social problems will not be decided through individual effort alone; the community must accept the responsibility and exercise social control over the actions of individuals, so far as it is necessary for the public good.
>
> We must place a higher estimate upon woman, the child and the laborer.
>
> The church should not guard the rights of man as an individual, but his moral personality.
>
> We have discussed the Christian principles which must govern international relations, but they should be as far from nationalistic self-glorification as from the cosmopolitanism of the masses.

> We have considered the duty of the individual conscience before the state, we have recognized the universal character of the church and its duty to preach fraternal love, we have inquired into the race problem, the problem of an international union (League of Nations), of peaceful methods for removing causes for war, etc.
>
> We are convinced that the church must select desirable principles and ideals, but it must be left to the individual and the community to apply these rules with love, wisdom and courage.
>
> This goal cannot be attained without the education of the individual by the church, and of the church through meditation and change of ideas.
>
> And we gladly turn our thoughts to the youth of all peoples, who struggle and work for better relations between the human races, and we think gratefully of the workers, with whom we share our inspirations for a more equal and fraternal social order.
>
> Our conference is beginning, but the work must not cease. Therefore we have formed a standing committee which should follow up the initial action, and which should call new conferences in the future for the further discussion of the questions which have occupied us in this great convention.[9]

We have intentionally stressed the German controversies at the Congress of Stockholm, because it seemed to us that they would probably bring forth powerful manifestations. At any rate the recent world conference has left a great problem as a heritage to Christian thought: the search for a means of bending public action to the preëminence of the ethics of Christianity in international life.

The tendency toward this coördination which brought forth the union of the Protestant churches (where the actualization is easier because of the uncertainty of the dogmatic boundaries) is noticeable of late even in the Catholic church, which conducts itself with the austere dignity peculiar to it.

Recently there was held at Brussels at the Convent of the Jesuits a conference, or rather a series of conferences, under the auspices of Cardinal Mercier, on the question of bringing the Occident and Orient together, with the papacy and Rome as center. It aimed particularly at the union of the Latin and Greek Orthodox churches. But the Greek Orthodox church was also present at the Congress of Stockholm. After the fall of Russia she felt herself alone!

THE CHIEF GERMAN SECTS[10]

BESIDES the national churches (the Lutheran, Calvinistic and Unitarian) there have arisen since the time of the Reformation many sects, whose number (including those which had but a short duration and those which lasted for centuries) reaches about two hundred. The chief of these sects are the Baptists, the Adventists, the Scrutinizers of the Bible, the Mormons, the Irvingites (and the Neo-Apostolicists), the Methodists, the Salvationists, the Scientists, the Mennonites and the Quakers. The active propaganda which they carry on is most successful among the Christians of the national churches, and often draws the best of them away. Their apostleship among the unbelievers, the freethinkers and the Catholics is less fortunate.

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[9] This is a summary of the message of Stockholm.

[10] We give this summary from a pamphlet on the German sects written without theological bias and with great clarity by the Franciscan Father Heribert Holzapfel, *Die Sekten in Deutschland*, Verlag Josef Kösel & Friedrich Pustet K.-G. Verlagsabteilung Regensburg, 1925.

For these sects as for all the other churches issuing from the Reformation, the Bible is the sole source of faith. On this point a Baptist preacher one day said to his flock:

> If one has a cow which one milks one's self in the stall, then he knows he has pure milk. But if he buys it in the city he does not know but that, passing through so many hands, it has been adulterated. The first case applies to us Baptists; we read the Bible ourselves, and therefore we know that we have pure milk; the second case applies to the Catholics, who draw their milk from the church and do not know whether it is pure.

The metaphor would hold if the non-Catholics, milking the cow, would all obtain the same milk; instead we know that each sect which milks produces a different kind of milk, according to their own opinion. What, then, is pure milk?

The number of Baptists in the world is about eight million adults, and of these forty-six thousand are in Germany. Very scattered, they differ from the other believers in their religious seriousness and in the severity of their garb.

The Adventists, or those who think the return of Christ is near (a dogma prevalent in many sects) and who have arrogated to themselves the task of preparing humanity for this advent, number more than twenty thousand in Germany. Their founder, Miller, an American, having by means of calculations set the date of the return of Jesus as falling between March, 1843, and March, 1844, some of them divested themselves of all their possessions at the approach of that date, others let the crops rot in the fields, and all, dressed in white, their arms raised toward heaven, awaited the prayed-for descent. The delusion was great, but they did not lack excuses and corrections of the date, and even yet the end of the world has not been fixed exactly! To-day the most ardent apostle of the Adventists is Lister White, the American, a visionary who has a large following. The Adventists, subsidized by enormous financial means (each of them must devote a tenth of his annual income to the work, and in 1920 this 10 per cent meant the goodly sum of ten million dollars!), carry on very strong propaganda everywhere and on every occasion. When the World War broke out the Adventists, being opposed to military service on principle, split in Germany on this point. But the majority decided for war!

The Scrutinizers of the Bible pride themselves on a deeper knowledge of the truth contained in the Bible. Founded in America through the work of a serious man, full of abnegation, the doctrine of this sect is contained in seven volumes (*Studies on the Scriptures*) and in the work *The Photo-dramas of the Creation*, whose illustrations have cost millions. According to them Christ is already returned to earth since 1874, but he is invisible. In 1914 Satan was finally placed in chains, and the old order of things vanished and a new arose (we haven't noticed it yet!). The seventh volume of the *Studies on the Scriptures* asserts that the existing lay and clerical institutions have renounced the Lord, are joined to Satan, and hinder the Scrutinizers of the Bible from announcing the truth to the people. These political and ecclesiastical powers were to be called to a severe judgment in 1925!

Even the Mormons, who, whatever be the doctrine inherent in their religion, have known enough to transform, by their labor and diligence, the desert of Utah into a beautiful and fertile garden and an economically important state of the American union, even these number their groups of disciples in Germany. Their headquarters is Basilea (as Hamburg is for the Baptists, the Adventists and the Irvingites). In the entire world they number six hundred thousand communicants. They are particularly notorious for their polygamy (called by them "patriarchal matrimony"), which they profess because, since no woman can reach a blessed state outside of this patriarchal matrimony, each man seeks to gain special merit by helping many women to acquire beatitude. However, since the government at Washington abolished polygamy it has been maintained by "heavenly marriages." Since woman cannot reach the heavenly bliss which polygamy leads to, many men marry dead women. Thus it comes about that the dead are married to many men. Without this substitution the Mormons could not remain in Germany or elsewhere where laws prohibiting polygamy exist.

The Irvingites number about thirty thousand in Germany. They consider the delayed return of Christ a punishment for the abandonment of the five functions of apostles, prophets, evangelists, pastors and teachers. Of Scottish origin, they created twelve new apostles, the last of whom was to see the return of Christ. But the last apostle died in 1901! The unfulfilled prophecy has produced a sad stupor in the ranks of the Irvingites. To offset this obstacle the community of the Neo-Irvingites or Neo-Apostolicists has arisen, which elects new apostles constantly, one by one, as the old die off.

The Methodists, whose doctrine is known, number about a quarter of a million in Germany (there are eight million in America). Great religious solemnity and severe costumes are at the basis of their life.

The Salvationists, or the attachés of the Salvation Army, organized by Booth, the Englishman—a choice spirit whom the whole world honors, and practically guided by his wife, Catherine Mumford—are numerous in Germany. This benevolent sect has thus been defined, and the definition could not be more appropriate: "Salvationism is altruism raised to the plane of religion." It is the religion of the lowest, a non-sectarian religion. Booth did not wish to increase the existing differences among Christians, but to be a ring of conjunction. Mrs. Booth, being of a more ethical than religious nature, is opposed to dogmas. Instead she proclaims fixed aims, like equality between man and woman, and the abolition of double standards of morals for the sexes. Its principal aim is to save fallen girls, the delinquent drunkards, wretches of all types, establishing places for meetings and instruction, kitchens, asylums, hospitals, missions in streets and brothels, maternity-houses, etc. This sect (if such it can be called) is organized strictly on army lines, and since an army must be aggressive the Salvationists are aggressive in their propaganda and penetrate everywhere. In 1912 (the year in which General Booth died) the number of officers was eighty-five thousand, the work was scattered among fifty-eight nations, preached in thirty-four languages, and was considered the greatest social force of modern times. In Germany there were nine divisions which were active in the Protestant states particularly. The finances are scrupulously kept and the expenses watched very carefully. The officers receive no salary, beyond that which is necessary for living—furnished lodgings, additions for children, etc.—but everything is limited. The fountains of their faith are the Scriptures and personal inspiration.

The Scientists, or Christian Scientists, who arose in America through the work of one woman, Mother Eddy, have several communities in Germany. The basis of their doctrines is the following: God is spirit, the only reality, all. Being spirit, his revelations can only be spiritual. Matter has no existence, it is only a product of our thoughts, disappearing, therefore, when the thought which has created it ceases. The same is true of sin, disease, and death. The truly spiritual man does not concern himself with them. He is created in the image of God, therefore he is eternal. Only the spiritual man is the true man, but he is as though wrapped in a cloud. Jesus has rarefied this cloud. He is the first Scientist, the "scientific man." The Scientists alone can learn from Jesus, they are the continuation of his work. Mother Eddy founded a higher medical school, where she herself taught for a very high salary (God having enjoined her to accept so much). She prohibited medicine in most cases and her disciples had to heal physical ills, working on the spirit of the invalid psychically only. (Spiritualism, hypnotism?) The Scientist group comprises only about two thousand.

A last note regarding the Mennonites, a continuation of the Anabaptists (twenty thousand are in Germany), and the Quakers. These last, arisen in England in the seventeenth century, believe that revelation comes to men directly from God without intermediaries, during peaceful meditation. Therefore they avoid all which can distract them, like theaters, balls, and romantic literature. Their number is not great in Germany, but the sect is favorably regarded because of the generous help it gave the German people in the hard days which followed the war. Frequently, when the animosity toward the English flared up, the feelings of the Germans were mitigated by the remembrance of these strangers, who, distant and unknown, nourished and succored a suffering people.

I have desired to give some idea of these convulsions of the religious spirit which reach the ridiculous (save for a few exceptions worthy of study), and which spend themselves sooner or later when they are left free. Persecution or prohibitions kindle resistance extending to the strangest follies, giving them strength under the pretext of religion.

APPENDIX XIV

DISSENSION BETWEEN A PREMIER AND A MAYOR OF ROME

In the speech which opened the International Exposition at Porta Pia in 1911, Ernesto Nathan, then acting and qualified Mayor of Rome, very inopportunely attacked the Catholic doctrine of the infallibility of the Pope.

No more was needed!

It was the year of the cholera; we desired a large influx of foreigners to the exposition, but they were not disposed to come to our beautiful country for they were terrified, not so much by authentic news of the few verified cases at Venice as by the exaggerations which the hotel keepers of Switzerland had deliberately spread. (Signs were put up on the streets of Lucerne, reading: "Give for the suffering cholera victims in Venice!") And the mayor of Rome, wounding the feelings of the Catholics, would turn that stream away too! But what was still more serious, he was wanting in that great respect toward the highest Catholic hierarch, which the Law of Guarantees justly imposes upon the Italian state and its functionaries.

A few hours after the tactless speech he was announced in my house. I was then Prime Minister and I was in conference just then with three ministers, but I ordered him admitted.

"Will you dismiss me?" demanded Ernesto Nathan, coming close.

I looked at him severely, hesitated an instant, and then said, "I would like to, but I cannot."

"Why?" asked Nathan.

Another brief silence. The ministers raised their eyebrows. The interest which the unexpected intermission had aroused was evident.

In slow and measured tones, looking hard at the Mayor of Rome, I answered: "For to dismiss you would be to draw about you, as about a martyr, all the anti-clericals, Masons, etc. At Rome we have a Pope, honored by law, by custom, and by Italian goodness and wisdom, and I do not wish, nay, I must not, create an anti-Pope."

APPENDIX XV

THE JEWISH QUESTION AT THE CONGRESSES OF VIENNA AND AIX-LA-CHAPELLE [1]

THE first great achievement of religious emancipation in modern times was accomplished in the American Republic. The French Revolution followed this shining example, and emancipated the Jews in France and Holland. (The latter was the first country to admit them to the higher offices of state.) France's influence caused similar echoes in Italy, Germany and Austria, giving rise to various measures and attempts to abolish religious inequality in the Napoleonic era and in the period immediately before it (Joseph II, Frankfort, etc.). But after the fall of Napoleon the prematurely perfected plan collapsed under the pressure of ideals imposed but not yet felt, and the Jews were plunged anew into the misery of isolation, to gaze weepingly and longingly from their purgatory upon the state of blessed liberty and equality of the elect. The situation was particularly difficult in the three Hanseatic cities and Frankfort, powerful seats of race hatred and religious intolerance.

In Prussia, on the other hand, in connection with the proposed law of Minister Schrötter (following Dohm) for the amelioration of the conditions of the Jews, Baron Wilhelm von Humboldt, a great and generous thinker, prepared for his government in 1809 a detailed report which outlined the basis and reasons for complete emancipation of the Jews in Prussia, a report which for logical argument, precise analysis, for abstract and concrete purposes, vies with the noblest voices raised in defense of this martyred people. (And this same Germany which had given to the world a von Humboldt has not yet fully conformed to the spirit of his suggestions!)

The Edict of 1812, forcibly wrung from the king of Prussia, did not heal the wound, although it mitigated somewhat the intensity of their sorrow, but the pale light of a new hope began to appear on the horizon: the Congress of Vienna, the first great union of nations where the voice of these oppressed peoples could be heard, and where for the first time these humanitarian questions, until now considered internal problems, assumed an international character.

The Congresses of Vienna (1814-15) and that of Aix-la-Chapelle (1818) have in their annals glorious pages of holy indignation, of patient and constant labor, of persuasive propaganda for a great cause, and there shines in beneficent light the spotless or shrewd [2] names of von Humboldt, of Prince Hardenberg (the Prussian Chancellor), Prince Metternich, Friedrich von Schlegel, etc., nor should the influence exerted upon the Congress by the Rothschild, Herz (Henrietta Herz), Lämel, Arnstein, and Itzig families, etc., go unmentioned. But the enthusiastic work of Humboldt, Hardenberg and Gentz was frustrated by the resistance of the Hanseatic cities, with which Bavaria, Frankfort, Saxony and other states allied themselves. The Jews had recently been expelled from Lubeck without waiting for the action begun in their favor in the Diet of Frankfort (1816), and although Prince Hardenberg had sent a vigorous appeal to recall it to a sense of justice, and to have it share in the views of Prussia, in this act of Christian piety. A letter of von Humboldt's, written to his wife from the congress, is of interest here:

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[1] I owe this information for the most part to the accurate publication of Mr. Max J. Kohler, *Jewish Rights at the Congresses of Vienna and Aix-la-Chapelle*, New York, The American Jewish Committee, 1918.

[2] I attribute this shrewdness to Metternich!

> Since the beginning of the congress, the Jews have sought to obtain the rights of German citizens. I have always been favorably disposed toward this question, but I know that you think differently, dearest. It comes from a conviction held by me since youth, when Alexander and I were considered the bulwarks of Judaism. I have taken the matter in hand here all the more because Prussia has accorded almost complete rights to her Jews, and it would be better for us that such legislation become general, otherwise all Jews will rush here. I drafted an article for the treaty, embodying my convictions; in the present conferences it became a chief topic of discussion, not because there are none of greater importance but because the more important questions are not discussed, fearing that the upshot will be dissent rather than agreement. Metternich, Wessenberg, Hardenberg and I sustain the cause to the best of our abilities. The envoys from Bavaria, Darmstadt, Saxony, and the Hanseatic cities constitute our principal adversaries. The question was discussed in two sessions; Metternich almost abandoned it, according to his custom, but I persisted, gave the matter new direction, yet made it free from detriment by merely referring it to a future *Bundesversammlung*, in the meantime conserving the rights of the Jews already acquired. Much was said on the question, but I alone composed the article and secured its adoption.

The brothers Humboldt and other young German noblemen used to frequent the lectures and the house of Marcus Herz (the husband of the beautiful and accomplished Henrietta), together with Moses Mendelssohn and others. From Henrietta the Humboldts learned Yiddish, and Wilhelm carried on a long correspondence with her in Yiddish.

At the same time Frankfort, whose independence had been assured by the Congress of Vienna, vigorously opposed the law giving the Jews equality with its other citizens, and violated the pro-Jewish and pro-Catholic clauses of the Congress.

In the meantime the decade set by Napoleon, as the time within which the Jews must become good citizens and assimilate themselves with the people of the country of their domicile, expired. France determined not to renew this restrictive act, but in many German territories the laws were entirely or partly retained with new edicts in 1818, contrary to the spirit of the Treaty of Vienna. These measures occasioned strong comment and demands for further remedies.

At the Congress of Aix-la-Chapelle (1818) their efforts were eagerly renewed. At this Congress two tendencies among the friends of the Jews revealed themselves more clearly: gradual emancipation (the French delegation and Dohm) and immediate and complete emancipation (Humboldt and Hardenberg). However, the practical results of this conference were almost nil.

At the Ministerial Conference in Vienna (1820), Prince Metternich proposed that the various statutes relating to the civil improvement of the Jews in the various states of the German Confederation should be combined, and the liberal character of the new equality accorded to the Jews in every state established. But opposition was not lacking and the results were few. Besides, the Jews of Austria themselves did not welcome the application of the entire report of Metternich, which declared:

> . . . Schools for Jewish children exist everywhere. The Jews may, with certain restrictions, become landed proprietors. They are subject to military conscription; all the grades of the service are opened to them; there are now Jewish state officials. . . . They can choose any profession. . . . They are allowed distinctions of every sort, save those which require the oath of a true Christian, such as knightly rank. . . .

Tyranny and despotism became even more oppressive when the wonderful attempts at deliverance were brewing, preparing for 1848, the year of great emancipations, whose liberal spirit seemed an inextinguishable flame. But on the contrary it grew dim in the last years of the German Empire, and the Republic has not known how to revive it.

SOME EXTRACTS FROM AN ANALYSIS BY WILHELM VON HUMBOLDT OF A NEW SYSTEM OF LEGISLATION DRAFTED BY HIM IN FAVOR OF THE JEWS (1809).

> This national character (of the Jews) has been linked with Christian ideas, and if viewed under the right aspect Judaism and Christianity will belong to the same category, but instead, if viewed from the wrong aspect, they will appear as diametrically opposed. This national character of the Jews gave to the comparatively unimportant Jewish race even in antiquity an entirely disproportionate importance. Their condition is therefore an historical and ecclesiastical phenomenon of such extraordinary nature that many distinguished minds repeatedly ask themselves if they can be accounted for in a merely human way. . . . But while such provisions are adopted by one state alone, assimilation will never be strong enough; and as regards religious ideas, the contrast between Jew and Christian will inevitably continue as long as the notion that Christianity is the

opposite of Judaism is not universally dissipated. . . . Only an immediate concession of full and equal rights is just, politic and consistent. . . . We must abandon inhuman and prejudiced ways of thinking, by which a man is judged not by his actual characteristics but by his origin or religion, and he is regarded not as an individual but as a part of a race, whose attributes he necessarily possesses. The state is not an educational but a political institution. No legislative system in favor of the Jew will achieve its end if it uses the word "Jewish" otherwise than in its religious connotation. . . . If the Jews will not readily accept the obligations imposed on every citizen I would prefer that, if all remedial measures to this end had been exhausted, they be rather expelled from the country entirely. For to endure persons within a state who would countenance the manifestation of so little confidence in them (even in our advanced culture) would be highly detrimental to the morality of the entire nation. . . . Loss of citizenship should be imposed on Jews only in cases where the same penalty would be imposed on Christians. . . .

APPENDIX XVI

SPEECH OF HON. WALTER M. CHANDLER OF NEW YORK IN THE HOUSE OF REPRESENTATIVES IN WASHINGTON (OCTOBER 10, 1913) ABOUT THE JEWS OF ROUMANIA AND THE TREATY OF BERLIN [1]

MR. SPEAKER, I wish now to address myself to the subject of Roumanian persecution of the Jew in defiance of the Treaty of Berlin, and I preface my remarks by reciting a joint resolution which I have introduced this afternoon.

The joint resolution is as follows:

HOUSE JOINT RESOLUTION 138

> WHEREAS, The following is the literal text of Articles XLIII and XLIV of the Treaty of Berlin of July 13, 1878: [2]
>
> "XLIII. The high contracting parties recognize the independence of Roumania, subject to the conditions set forth in the two following articles.
>
> "XLIV. In Roumania the difference of religious creeds and confessions shall not be alleged against any person as a ground for exclusion or incapacity in matters relating to the enjoyment of civil and

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[1] I cannot approve some remarks in which the orator went beyond the respect due to a nation which suffered so much in the course of her existence. It must also be acknowledged that the Jewish problem had difficult phases for the people and the government of Roumania.

[2] These articles recognized the independence of Roumania on condition that all citizens of whatsoever faith have the same rights and the same duties.

political rights, admission to public employments, functions, and honors, or the exercise of the various professions and industries in any locality whatsoever.

"The freedom and outward exercise of all forms of worship shall be assured to all persons belonging to the Roumanian state, as well as to foreigners, and no hindrance shall be offered either to the hierarchical organization of the different communions or to their relations with their spiritual chiefs.

"The subjects and citizens of all the powers, traders or others, shall be treated in Roumania, without distinction of creed, on a footing of perfect equality."

WHEREAS, The government of Roumania accepted the terms of said articles of said treaty as a condition precedent to the recognition of her independence; and

WHEREAS, It is a matter of certain knowledge that the Jews of Roumania, numbering about 250,000, have been the barbarized and impoverished victims of Roumanian discriminatory legislation and of Roumanian riots and massacres for a period of more than thirty years in violation of both the letter and the spirit of the Treaty of Berlin: Therefore be it

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the American Congress that the interests of civilization, the rights of humanity, the principles of eternal justice, and the dignity and sanctity of international law demand that the signatory powers of the Treaty of Berlin compel Roumania to observe the stipulations of the Treaty of Berlin in the matter of the treatment of the Jews.

Resolved, That the Secretary of State be requested to transmit a copy of this resolution to the governments of Great Britain, Germany, Austria, Russia, France, Italy, and Turkey.

Mr. Speaker, in all the history of prejudice the persecution of the Jews has no parallel. Whether born of human wickedness or divine vengeance, Jewish persecution is the strangest of all historical phenomena. When and where it originated and what have been its intensifying and perpetuating causes are still subjects of grave doubt and speculative debate.

When we come to trace the history of prejudice against the Jew and to seek its cause we are led by many labyrinthian paths through shadows of doubt and mystery to a remote antiquity. The popular notion that hatred against the Jew originated in the crucifixion of the Savior is without basis in reason or in fact. The tragedy of Golgotha might have been a perpetuating, an intensifying means, but it was not the origin—the originating principle.

To ascertain the real beginning of Jewish persecution we must antedate the Christian era by several centuries. We must go back to the days of ancient Egypt. We learn from Genesis XXXXIII:32 that "the Egyptians might not eat bread with the Hebrews; for that it is an abomination unto the Egyptians." Social discrimination and ostracism seem to have been keen and bitter even in those early times. And in the Book of Esther, III:8, we find an epitome of much of the complaint made by the anti-Semites and Jew baiters of modern times; "And Haman said unto the king Ahasuerus, There is a certain people scattered abroad and dispersed among the people in all the provinces of thy kingdom; and their laws are diverse from all people, neither keep they the king's laws." Then Haman added: "If it please the king, let it be written that they may be destroyed." Those were plain, fierce days when thoroughgoing measures were unhesitatingly advised.

How thoroughly the old Romans hated and despised the Jews may be learned from early Roman writers. Cicero, *Pro Flacco*, says: "Their barbarous superstitions must be fought." "The Jews are nothing but a superstitious nation," says Persius. "Their Sabbath is a lugubrious day," adds Ovid. "They worship the hog and the ass," affirms Petronius. Of course, the charge of worshiping the hog was a gratuitous slander, a lie born of calumny and ignorance and perpetuated by hate and superstition.

In the annual carnivals of ancient Rome the Jews were compelled to play the rôles of clowns and buffoons, were forced to run in the races ridiculously dressed, and were compelled to ride through the streets mounted backward on donkeys, holding the animals' tails in their hands.[3]

When the night of the Middle Ages fell upon the human race Jewish persecution often assumed forms of peculiar malignity and hate. King John of England once caused one of his Jewish subjects to be cast into prison, and then ordered that a tooth should be drawn from his mouth each day until he had surrendered his money. Seven teeth were extracted, one on each subsequent day, until, on the eighth, the unhappy and unlucky man ransomed the remainder of his teeth at the price demanded, ten thousand marks of silver.

In Toulouse, France, it was an ancient custom on certain holidays to slap the Jews in the face publicly and ostentatiously. All the Jews in town were compelled to assemble in the public square. The Count of Toulouse then opened the miserable proceedings by slapping in the face the elders of the Jewish community, and his subjects followed suit, until all the Jews had been slapped and thoroughly humiliated.

In Germany in the eighteenth century, even so grand a king as

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[3] There is an entire literature which, on the contrary, tends to prove that the Jews were treated with tolerance under the Roman Empire, particularly under Julius Cæsar and Augustus, and which illustrates their condition in the centuries that preceded the destruction of Jerusalem. See: *Bibliothek der griechschen und römishen Schriftsteller über Judenthum in neuen Uebertragungen und Sammlungen* (Leipzig, 1865-72); *Corpus Inscriptionum Hebraicarum* (D. Chwolson, St. Petersburg, 1882). Among those who have written on the subject are J. Felten, A. Geiger, F. Gregorovius, A. Harnack, E. H. Hudson, J. Juster, E. Kuhn, B. Lazare, P. C. Manfrin, Mendelson, Mendelssohn, W. D. Morrison, Th. Reinach, A. Giron, etc. Dora Askowith of New York, a young woman instructress of Hunter College, has reached the same conclusions in a diligent study in which reference is made to various sources (*The Toleration of the Jews under Julius Cæsar and Augustus*, New York, 1915).

Frederick the Great persecuted the Jews by contemptible and irritating exactions. He permitted only a certain number of them to marry annually, and then only on condition that they would buy three hundred dollars' worth of chinaware from his royal porcelain factory. We are reminded by this that Frederick was not only a scholar and philosopher under the tutelage of Voltaire, but that he was a money-maker as well.

But time does not permit a recital of all the laws of ancient and mediæval ages, whose effect was to embitter the life and degrade the condition of the Jew. The world is already too sadly familiar with the history of his woes. The references already made have been merely academic and introductory.

It now becomes my painful duty to be pointed and practical; to discuss and denounce the brutal and savage persecutions of the Jews by Roumania, reputed to be a Christian nation, pretending to be civilized and enlightened, while violating the most sacred and solemn treaty obligations to her sister nations, while trampling under foot all the charities of the heart, all the tenets of religion, and all the sentiments of humanity—and this at the beginning of the twentieth century—more than a hundred years after the American Revolution established the immortal principle that all just powers of government are derived from the consent of the governed; more than a hundred years after the French Revolution sent the cry of "liberty, equality, fraternity," reverberating around the globe; and more than nineteen centuries after the Prophet of Nazareth delivered the Sermon on the Mount, the chart of the soul on the sea of life, whose beatitudes are the glorifications of the virtues of meekness, mercy, peace, gentleness, and love.

The modern kingdom of Roumania was formed by the union of the ancient principalities of Moldavia and Wallachia, provinces situated near the mouth of the Danube, having an area of about 50,000 square miles, and occupying an extent of territory some 350 miles in length and 160 miles in breadth. The shape of the country is an irregular half-moon, touching the Black Sea near the center of the crescent.

The people of Roumania proudly boast a classic antiquity in their supposed descent from the Romans who conquered the ancient Scythian kingdom of Dacia, which was practically the modern territory of Roumania.

If not classic in history the country of Roumania is at least classic and historic in soil, for the legions of Rome, the hordes of Attila, the crusaders of Richard and Barbarossa, and the Cossacks of Peter the Great, have crossed its borders and traversed its plains.

The language of Roumania has a groundwork of Latin and Slavonic, with a superstructure of Turkish, Greek, and French.

The social, political, religious, and intellectual life of the people is a strange, weird blending of the cruder forms of occidental and oriental civilizations.

The population of Roumania in 1910 was about 6,850,000. Fully 6,000,000 of these were Roumans or Vlachs; the rest were Jews, Armenians, Gypsies, Greeks, Germans, Turks, Magyars, Servians, and Bulgarians.

Of the total population of Roumania the Jews number about 250,000. And it is with the Jews of Roumania, in their relationship as citizens and subjects to the government of Roumania, and with the government of Roumania in its relationship to its Jewish population, under binding treaty obligations entered into by Roumania with the great powers of Europe, that I shall hereafter in this address deal particularly and pointedly.

I desire especially to discuss the persecution of the Jews by Roumania, in defiance of the Treaty of Berlin of July 13, 1878. I shall, however, in the first place, as a foundation for that discussion, submit for your consideration a classified list of Roumanian laws, passed during the half century preceding the assembling of the Congress of Berlin, which were intended to discriminate against the Jews. This list, though short, may be tedious and tiresome to study and contemplate, but it will be decidedly illuminating and enlightening when we come to consider the motive and conduct of the great powers in forcing Roumania, through treaty stipulations, to accord better treatment to her Jewish subjects. The following is a résumé, with authorities cited, of the leading Roumanian legal enactments against the Jews between the years 1802 and 1876:

1803. Alexander Monize forbids Jews to rent farms. (*American Jewish Year Book*, 1901, p. 48.)

May 18, 1804. Alexander Monize, of Moldavia, forbids Jews to buy farm products. (Loeb, *La Situation des Israélites en Turquie, en Serbie et en Roumanie*, p. 212, Paris, 1877, hereafter cited as "Loeb.")

1817. Code Cahmachi, section 1430, forbids Jews of Roumania to acquire real property. (Loeb, p. 213.)

By 1818. Code of John Caradja, of Wallachia, repeats the church laws against allowing Jews to be witnesses against Christians. (*American Jewish Yearbook*, 1901, p. 50.)

By 1819. Code of Kallimachor of Moldavia gives civil rights to Jews, who, however, may not own land. (*American Jewish Yearbook*, 1901, p. 50.)

1831. Fundamental law of Moldavia, chapter 3, section 94, orders all Jews and their occupations to be registered; Jews not of proved usefulness are to be expelled; others of same class shall not be allowed to enter. (Loeb, p. 214.)

March 11, 1839. Tax of 60 piasters per annum placed on Jews of Moldavia. (Loeb, p. 215.)

December 12, 1850. No Jew allowed to enter Roumania unless possessed of 5,000 piasters and of known occupation. (Loeb, p. 216.)

May 5, 1851. Appointment of commission of vagabondage at Jassy to determine right of entry of foreign Jews. (Loeb, p. 216.)

June 17, 1861. Circular of Roumanian ministry preventing Jews from being innkeepers in rural districts. (Loeb, p. 217.)

April 12, 1864. Communal law of Roumania permits only those Jews to be naturalized who (1) have reached the grade of non-commissioned officers in the army (2) or have passed through college (3) or have a recognized foreign degree (4) or have founded a factory. (Loeb, pp. 107-108.)

December 4, 1864. Jews excluded from being advocates. (Loeb, p. 124.)

December 7, 1864. Elementary education of all children between the ages of eight and twelve obligatory. (Sincerus, *Les Juifs en Roumanie*, hereafter cited as Sincerus.)

April 14, 1866. Ghika, Roumanian Minister of Interior, permits Jews already settled in rural districts to keep farms till leases run out, but they must not renew them. (Loeb, p. 218.)

March, 1868. Law submitted to chamber preventing Jews from holding land, settling in the country, selling food, keeping inns, holding public office, trading without special permits. Jews already settled in rural districts were to be driven therefrom. This was withdrawn April 5 in fear of the intervention of the powers. (Loeb, pp. 169, 311-312.)

June 23, 1868. All Roumanians forced to serve in army, "but not strangers" (Loeb, p. 109); therefore Jews who served were for this purpose regarded as Roumanians.

December 27, 1868. Jews excluded from medical profession in Roumania. (Loeb, p. 124.) Clause omitted in decree of June, 1871.

January 15, 1869. Jews not allowed to be tax farmers in rural communes. (Loeb, p. 112.)

July, 1869. Note of M. Cogalniceanu to French consul at Bucharest refuses to consider Jews as Roumanians. (Loeb, p. 102.)

October, 1869. Extra tax put on kosher meat at Roman and Focsan. (Loeb, p. 127.)

October 25, 1869. Jews prevented from being apothecaries in Roumania, except where there are no Roumanian apothecaries. (Loeb, p. 125; Sincerus, p. 102.)

November 10, 1870. Servian Jews obliged to serve in army. (Loeb, p. 57.)

February 15, 1872. All dealers in tobacco in Roumania must be Roumanians. (Loeb, p. 120.)

April 1, 1873. Law forbidding Jews to sell spirituous liquors in rural districts. (Loeb, p. 188.) A license may be given only to an elector. (Sincerus, p. 19.)

These enactments show the legal disabilities of the Jews. But they do not tell the full story of shame and humiliation of a long-suffering and wretched people. Written in the calm and dignified phraseology of the law they cannot and do not recount the bloody details of riot and massacre, whose occurrence was the disgrace of civilization and whose horrors compose the blackest chapters of Roumanian history. I will not harrow your feelings with a recital of the details. I shall content myself with a simple and dispassionate discussion of legal rights and treaty obligations in the matter of Roumania and the Jews.

It was at the close of the War of the Crimea that the great governments of Europe first gave serious attention to the oppressions of the Jews by the rulers of the principalities of Moldavia and Wallachia, the provinces from which the kingdom of Roumania was afterwards formed. At that time the first decisive effort was made to relieve the legal disabilities of the Jews.

The following articles of the protocol of the Conference of Constantinople of the eleventh of February, 1856, imposed, it must be admitted, rather exacting terms upon Moldavia and Wallachia:

> XIII. All the religions and those who profess them shall enjoy equal liberty and equal protection in the two principalities.
>
> XV. Foreigners may possess landed property in Moldavia and Wallachia on discharging the same liabilities as natives and on submitting to the laws.
>
> XVI. All Moldavians and Wallachians, without exception, shall be admissible to public employments.
>
> XVIII. All classes of the population, without any distinction of birth or religion, shall enjoy equality of civil rights and particularly of the right of property in every shape, but the exercise of political rights shall be suspended in the case of natives placed under a foreign protection.

The language of these articles was an emphatic and unequivocal declaration in favor of civil and religious liberty for all the inhabitants of Roumania. A complete realization of the protection afforded by these articles would have been all that the Jews could reasonably have asked. But such a thing was not to be. No such blessing was in store for them. The reigning Prince of Moldavia, Gregory Ghika, began at once a course of subterfuge and evasion for the purpose of rendering abortive the intentions and efforts of the powers. He contended that a strict application of the provisions of these articles was impracticable, if not impossible, on account of the great number of unassimilated Jews in the principalities; and two years later he presented a memorial to the Congress of Paris asking that the realization of the principle embodied in the articles of the protocol of the Conference of Constantinople, which he admitted to be excellent within itself, should be left to the discretion of the local government, which alone, he contended, knew how to apply the principle. His arguments were plausible, if not sound and righteous, and at last, out of deference to the wishes and pledges of Ghika, the powers modified their intentions by the adoption of Article XLVI of the Convention of Paris, which runs as follows:

> All Moldavians and Wallachians shall be equal in the eye of the law and with regard to taxation, and shall be equally admissible to public employments in both principalities.
>
> Their individual liberty shall be guaranteed. No one can be detained and prosecuted but in conformity with the law. No one can be deprived of his property unless legally for causes of public interest and on payment of indemnification.
>
> Moldavians and Wallachians of all Christian confessions shall equally enjoy political rights. The enjoyment of these rights may be extended to other religions by legislative arrangements.

Indeed the pledge of Ghika and the expectations of the powers based upon this pledge were that the Jews would be gradually enfranchised and emancipated politically by legislative arrangements. But Roumanian legislation during the past fifty years shows how badly founded were those expectations and how complete has been the evasion of that pledge.

Instead of relieving their legal disabilities, the efforts of the powers to help the Jews through stipulations of the conventions of Constantinople and Paris proved to be a positive misfortune.

> So far, [says a modern writer,] from ameliorating the condition of the Jews, the Convention of Paris by a regrettable accident led to more burdensome disabilities and a more barbarous persecution than they had ever before endured. Under the old organic laws, by which the principalities were governed previously to 1859, the people had no effective voice in the government. Hence there was little cause for jealousy between Christians and Jews, and with the exception of occasional explosions of religious fanaticism, they lived together in harmony. The new order of things established in 1858 destroyed this equality. It gave to the Christian population a monopoly of political power which they were not slow to use against their trade rivals among the unenfranchised Jews. This unfortunate incidence of the Convention of Paris was aggravated by the new electoral law under which a preponderating franchise was reserved for the mercantile classes, with whom the Jews, being chiefly of the same classes, most directly competed. The result was that not only was the fulfillment of Article XLVI of the Convention of Paris rendered impossible, but the whole influence of the mercantile electorate was employed to obtain the imposition of fresh disabilities upon the Jews and to inflame the religious and radical prejudices of the populace against them. Instead of gradually emancipating them in accordance with the provisions of the Convention of Paris, even their status as "non-Christian Moldo-Wallachs," acknowledged in that instrument, was denied them. They were assimilated by the

> civil code of 1864 to aliens, though admitted by the code to be "indigences," and were made dependent on a difficult and tedious process of naturalization for their acquisition of political rights (Articles VIII, IX, and XVI). Even that privilege was withdrawn from them by the constitution of 1866, which declared (Articles VII) "that only Christians may obtain naturalization." Consequently Article XLVI of the Convention of Paris remained a dead letter.

In the meantime the Jews of Roumania were more bitterly oppressed than ever. New laws discriminating against them were passed; riots and massacres were renewed with greater fury. They were languishing in a bondage worse than that endured by their fathers in ancient Egypt when hope was revived again among them by the adoption of Article XLIV of the Treaty of Berlin of July 13, 1878.

The Berlin Congress of 1878 was a gathering at the German national capital of the brainiest and most brilliant statesmen of Europe. The purpose of the congress was to settle the questions growing out of the Russo-Turkish war of 1877-1878.

On the twenty-fourth of April, 1877, Russia declared war against Turkey with the avowed object of protecting the Christian inhabitants of the Ottoman Empire. Bulgaria, Roumania, Servia, and Montenegro were either tacitly or openly the allies of the Czar. After varying successes the fortunes of war finally favored the Russians, and the fall of Plevna opened the way to Constantinople. The Turks sued for peace, and on March 3, 1878, the Treaty of San Stefano was signed. Some of the terms of this treaty were displeasing to several of the governments of Europe. Austria and England were decidedly dissatisfied. The political changes made and the territorial readjustments provided for in the treaty, together with the exaction of 1,400,000,000 rubles war indemnity, which promised to cripple most seriously the resources of the Turkish Empire for years to come, practically made the Czar permanent arbiter of Balkan affairs. To avert such a catastrophe had been the traditional policy of Austria, and to prevent a result so disastrous to her interests England had waged the War of the Crimea.

Assuming the initiative in the matter Count Andrassy, in the name of the Austrian government, dispatched a circular note to the signatory powers of the Treaty of Paris of 1856 and the London protocol of 1871 suggesting an international congress for the purpose of establishing "the agreement of Europe on the modifications which it might become necessary to introduce into the above-mentioned treaties," in view of the provisions of the Treaty of San Stefano. The suggestion of Count Andrassy met with a ready response. Germany was especially willing to cooperate with England and with Austria, her ally, in the assembling of a congress of which her own great statesman, Bismarck, was sure to be the dominating figure. Russia was naturally displeased with the turn events had taken. She felt intuitively that she would lose all that she had gained in the war with Turkey if she consented to the revision of the articles of the treaty of San Stefano by an international conference dominated by her enemies.

But she was powerless to resist. She demanded, however, as a condition of giving her consent to the assembling of the proposed congress and of her participation in its proceedings, that the scope of its powers be limited by the exclusion of certain clauses of the treaty of San Stefano from its consideration. The reply of Disraeli, on behalf of England, to this demand was to mobilize the militia and to bring Indian troops to the Mediterranean. Finding that the diplomatic support which she had hoped to receive from Bismarck had failed her, she took the hint, and finally consented to submit the whole question of the Balkan situation to the determination of a new international conference.

On the third of June, 1878, Count Münster, in the name of the German Emperor, invited the delegates of the signatory powers of the Treaty of Paris of 1856 to assemble at Berlin. The invitation was accepted. Great Britain was represented by Lord Beaconsfield, Lord Salisbury, and Lord Russell; Germany by Prince Bismarck, Prince Hohenlohe-Schillingsfürst, and Baron von Bülow; Austria by Count Andrassy, Baron Karolyi, and Baron von Haymerle; Italy by Count Corti and Count Launay; France by William H. Waddington, Felix Desprez, and Le Compte de Saint-Valliers; Russia by her imperial chancellor, Prince Gorchakov, Count Shuvalov, and Paul D'Oubril; Turkey by Alexander Pasha, Ali Pasha, and Sadullah Bey.

These distinguished representatives of the leading nations of the world —lords, princes, barons, counts, ambassadors, and prime ministers—men renowned in statesmanship, diplomacy, law, and letters, convened, and organized the Congress of Berlin, on the 13th day of June, 1878, under the presidency of Prince Bismarck.

On the thirteenth of July, a month after the assembling of the congress, the Treaty of Berlin was signed. It consists of sixty-four articles.

Two great purposes of the delegates of the congress are revealed in the terms of the treaty:

(1) The reconstruction, upon an equitable basis, of the map of southeastern Europe;

(2) The establishment of the independence of certain Balkan states upon a foundation of civil and religious liberty.

The first great purpose was achieved, in the main, by certain territorial changes. Bulgaria was divided into two parts—Bulgaria proper and eastern Rumelia. Parts of Armenia were given to Russia and Persia. Bosnia and Herzegovina were transferred to Austria, and Bessarabia was restored to Russia.

The second great purpose was accomplished by the recognition of the independence of Roumania, Servia, and Montenegro under terms of guaranty by them of civil and religious liberty to all the inhabitants of their territories.

In the archives of history are few more important documents than the Treaty of Berlin. It readjusted the boundaries of kingdoms and empires. It proclaimed the independence of states and the freedom of races. It was, above all, a grand proclamation of religious emancipation.

The conditions of life among the Jews of Roumania were far more pitiable and their political situation was infinitely worse when the Berlin Congress convened in 1878 than they had been twenty years before when the conferences of Constantinople and Paris met. In 1858 the legal status of the Jews was admitted to be that of unenfranchised Roumanians. In 1878 they had been declared to be outcasts and aliens, and were cruelly treated as such. A succession of barbarous persecutions, culminating in riots and massacres, had reduced them to such a state of misery and degradation that the pity of mankind was excited and the indignation of the civilized world found vigorous expression in official protests to the great powers of Europe. This was the state of affairs when Roumania asked the delegates to the Congress of Berlin to recognize her independence as a kingdom.

The representatives of the powers knew well the cunning character of Roumanian statesmanship. They remembered distinctly the subterfuge and chicanery employed to evade the pledges given at the time of the conferences of Constantinople and Paris. They recalled that discretion had been allowed and that it had been abused in the matter of the promise of Ghika to emancipate the Jews gradually by legislative enactment. They now resolved to withdraw all discretion from the government of Bucharest in the matter of the emancipation of its non-Christian subjects. And to the demand of Roumania that her independence be recognized the powers responded with Articles XLIII and XLIV of the Treaty of Berlin of July 13, 1878, which imposed as a condition of recognition the absolute equality of all religious creeds and confessions in the kingdom. The following is the text of those articles:

> XLIII. The high contracting parties recognize the independence of Roumania, subject to the conditions set forth in the two following articles:
>
> XLIV. In Roumania the difference of religious creeds and confessions shall not be alleged against any person as a ground for exclusion or incapacity in matters relating to the enjoyment of civil and political rights, admission to public employments, functions, and honors, or the exercise of the various professions and industries in any locality whatsoever.
>
> The freedom and outward exercise of all forms of worship shall be assured to all persons belonging to the Roumanian state, as well as to foreigners, and no hindrance shall be offered either to the hierarchical organization of the different communions or to their relations with their spiritual chiefs.
>
> The subjects and citizens of all the powers, traders or others, shall be treated in Roumania without distinction of creed on a footing of perfect equality.

Such were the terms offered by the Congress of Berlin to Roumania as a condition of the recognition of her independence.

Strangely and unfortunately the powers were once again persuaded to agree to a compromise. "That only Christians may obtain naturalization" was a provision of Article VII of the Roumanian constitution of 1866. Acting upon the arbitrary and illegal assumption that all Jews were aliens, Roumania contended that the only disability imposed upon them was exclusion from naturalization under this article, and she consequently proposed to revise Article VII of her constitution as a satisfaction of Article XLIV of the Treaty of Berlin. The offer of Roumania, in other words, was to open the door of naturalization to the Jews, the inference then being, of course, that all other blessings would flow from citizenship.

The powers pointed out in reply that by the Roumanian naturalization law the "equality of citizen" could only be obtained after a probation of ten years, and then by individual act of Parliament, which was liable to be defeated by the Chambers; and the offer of compromise was consequently declined.

Roumania then changed her ground by deserting her legal position and urging a plea of expediency. She insisted that if the Jews were not aliens in law they were aliens in fact, "not only by their religion, but by language, custom, manners, aspirations—in a word, by all that constitutes distinctive character in a man as a member of society." She contended, further, that the Jews were "illiterate and fanatical," and that they were "peculiarly accessible to foreign influences, and that, owing to their large numbers, they were calculated to strike a fatal blow at the homogeneity of the Roumanian national character." And as a final plea it was urged that "the nation was strongly opposed to an immediate and wholesale emancipation, and that if the powers insisted upon it the effect would be that the cause of religious liberty in Roumania would be endangered rather than promoted."

The powers seem to have been somewhat impressed by the force of these contentions, but, nevertheless, they still declined to admit that a revision of Article VII of the Roumanian constitution would, in full measure, meet the requirements of Article XLIV of the Treaty of Berlin.

It was then that Roumania, fearing the shipwreck of her hopes to become an independent nation, gave the most solemn assurances that if the proposed solution was accepted, it would be made to apply at once to all assimilated Jews, and that the naturalization of unassimilated Jews would be provided for and accomplished within a reasonable time.

Sir William White was told by Boeresco, the Roumanian foreign minister, "that if the present bill would only become a law, a more complete measure of emancipation would be accepted by the electorate later on when the present agitations had subsided."

But more specific and emphatic than this were the promises contained in a circular dispatch sent out by Boeresco under date of August 31, 1879, a document that he himself described as "a sort of *expose des motifs* of the measure we are about to submit to the Chambers." The essential passages of this dispatch are the following:

> Will the Jews who do not immediately obtain naturalization remain foreigners? No; they will remain what they always have been —Roumanian. But in the measure that they identify themselves with the population of the country, in the measure that by schools and other means of preparation they become enlightened men and attached to the country, they will be able to obtain and exercise political rights.
>
> . . . .
>
> There will be three categories of Jews—foreigners, Roumanian subjects, and citizens. Hitherto both the foreign and native Jews have been the objects of certain prohibitions, but in their quality of Jew alone. From the moment that article VII of the constitution shall be suppressed all these prohibitions will disappear, and no distinction will be made between the foreign Jew and the foreign Christian. It will be the same with the Jews who are Roumanian subjects. Hitherto certain civil rights have been denied them. Thus they could not be advocates, professors, state engineers; they could not serve on juries, etc. Under the new régime they will have, in the first place, all the rights enjoyed by foreigners in general. Then, as Roumanian subjects they will have the right of serving in the army and the national guard, the right of acquiring real estate, the right to be advocates, to serve on juries, to exercise freely every profession and every trade; they will, in short, have the same civil rights as Roumanians and will be protected in the same way by the same law and by the authorities. (Official documents extracted from the diplomatic correspondence of 2/14 September, 1878; 17/29 July, 1880. Bucharest, 1880, pp. 121-123.)

The governments of Austria and Italy were somewhat inclined to accept these assurances, but England, France, and Germany still demanded that legislative guaranties be given for the faithful observance of the treaty and that this be done within a reasonable time, if not immediately.

The negotiations between Boeresco and the powers were still in progress when the Roumanian Parliament passed an act revising Article VII of the constitution, which was soon afterwards promulgated by the Prince in the following terms:

> In room of Article VII, which is revised, the following shall be placed:
>
> Art. VII. The difference of religious creeds and confessions does not constitute in Roumania an obstacle to the acquirement of civil and political rights and their exercise.
>
> 1. Every foreigner, without distinction of creed, whether enjoy-

> ing any foreign protection or not, can acquire naturalization under the following conditions:
>
> (a) By addressing to the government an application for naturalization, in which must be declared the capital he possesses, his profession, and his wish to establish his domicile in Roumania.
>
> (b) By residing in the country for ten years after having made this application and by proving by his acts that he is useful to the country.
>
> 2. The following may be exempted from this delay of residence (ten years):
>
> (a) All who shall have introduced into the country industries, useful inventions, or distinguished talents, or who shall have founded large commercial or industrial establishments.
>
> (b) All who have been born and educated in Roumania of parents domiciled in the country and have, neither in their own case nor that of their parents, at any time been in the enjoyment of any foreign protection.
>
> (c) All who have served with the colors during the war of independence, and these can be naturalized collectively on the proposition of the government by a single law, without further formalities.
>
> 3. Naturalization can only be granted by a law, and individually.
>
> 4. A special law will determine the manner in which foreigners can establish their domicile on Roumanian territory.
>
> 5. Roumanian and naturalized Roumanian citizens can alone acquire rural estates in Roumania.
>
> Rights acquired up to the present time are respected.
>
> The international conventions existing at present remain in force, with all their clauses and for the term mentioned therein.

This decisive action of the Parliament of Bucharest, bold in design and prompt in execution, seems to have changed the notions of the powers, for they soon afterwards consented, though reluctantly, to the Roumanian solution. But before giving their final consent they required the Roumanian government to make a formal declaration of acceptance of the principle of Article XLIV of the Treaty of Berlin and of its resolution to act upon it "loyally and sincerely." The required obligation was expressed in the following note:

> Article VII of the Roumanian constitution, sanctioning the principle of Article XLIV of the Treaty of Berlin, has opened to the Jews access to citizenship and has abrogated all existing laws. That principle will continue to be observed sincerely and loyally. The organic powers will devote themselves to assuring its respect and will pursue its application with the view of securing a more complete assimilation of the Jews. . . . Meanwhile all Jews residing in the country will possess, from the point of view of private civil law, an assured juridical position, and will have no cause to fear

> arbitrary administrative measures or exceptional laws aimed at confessions or religions. (Statement by Signor Cairoli in the Italian Parliament, Dec. 9, 1879.)

Upon the receipt of this note Austria and Italy signified their willingness to recognize the independence of the new kingdom.

After considerable hesitation Great Britain, France, and Germany did the same, but not before they had made it perfectly clear to the Roumanian government that they were well aware that the conditions of the Treaty of Berlin had not been fulfilled and that they relied upon the solemn pledges of the principalities "to observe them in the spirit and to execute them gradually in the letter."

That there might be a clear understanding of the situation the three last-mentioned powers presented an identic note to M. Boeresco on the 20th of February, 1880. The following are the essential paragraphs of that note:

> Her Majesty's government cannot consider the new constitutional provisions which have been brought to their recognizance—and particularly those by which persons belonging to a non-Christian creed domiciled in Roumania, and not belonging to any foreign nationality, are required to submit to the formalities of individual naturalization—as being a complete fulfillment of the views of the powers signatories of the Treaty of Berlin.
>
> Trusting, however, to the determination of the prince's government to approximate more and more in the execution of these provisions to the liberal intentions entertained by the powers, and taking note of the positive assurances to that effect which have been conveyed to them, the government of her Britannic Majesty being desirous of giving to the Roumanian nation a proof of their friendly sentiments, have decided to recognize the principality of Roumania as an independent state. Her Majesty's government consequently declares themselves ready to enter into regular diplomatic relations with the prince's government.

Such was the result of the diplomatic negotiations of nearly two years in which the great powers of Europe had again been cajoled and hoodwinked by a contemptible little Balkan principality. Roumania had secured the recognition of her sovereignty and, in return, had given promises and pledges which the developments of the last thirty years show she never intended to fulfill.

The Congress of Berlin of 1878 accomplished nothing more in fact than did the Convention of Paris of 1858. The illusory pledges of Prince Gregory Ghika remained unfulfilled for twenty years. The promises of the government of King Charles have been equally false and hypocritical, for more than three decades have passed and yet nothing has been done to meet the just expectations of the powers. A new generation of Roumanian Jews have been born in the land, and yet they are as far from emancipation as were their fathers. The night of oppression and persecution still hovers over them and the day of freedom and regeneration still seems far away. They are still held to be aliens and outcasts in the land of their birth; naturalization is still practically inaccessible to them; and the sufferings of persecution are still as great and painful as ever.

Roumanian statesmanship triumphed in the matter of the compromise of 1880, not by honest methods of skillful diplomacy, but by craft and cunning and through the negligence of the powers themselves.

It was a regrettable mistake that the governments of Europe should have overlooked two fatal defects in the compromise. In the first place they should by all means have forced from the Roumanian Parliament a legislative acknowledgment that Jews "belonging to no other nationality and enjoying no foreign protection were Roumanian nationals in the sense of Article XLVI of the Convention of Paris and of the admission of M. Boeresco in his dispatch of August 31, 1879."

Again the Roumanian Parliament consists of two chambers. All naturalization bills are individual and must pass each chamber by a two-thirds majority. Paragraph 3 of the revised Article VII of the constitution left Jewish petitions for naturalization at the absolute mercy of the Parliament. This was the second fatal defect of the compromise which should not have been overlooked by the powers.

These defects are all the more to be lamented because they furnish loopholes of escape to Roumania in the matter of keeping her naturalization pledges under the treaty. They gave ground for the practice of rank hypocrisy, and at the same time for a plea of seeming justification in terms of law.

The unfortunate result has been that in the matter of naturalization, so far from keeping her pledges, Roumania has almost completely ignored them, for the Roumanian chambers have in nearly every case refused to pass bills intended to confer citizenship upon the Jews. Since 1880, the date of the recognition of the new kingdom, only 176 Jews have been naturalized out of a total population of 100,000 adult males, the great part of whom are natives, and many thousands of whom have bravely and patriotically performed military service for the Roumanian fatherland.

When arraigned at the bar of the nations and charged with bad faith in the matter of broken pledges, the defense of Roumania is at once astonishingly simple and amazingly cynical. She simply revives her ancient argument that the Jews are now and have always been strangers and aliens in the land, and that the treaties of 1858 and 1878, under strict interpretation, did not alter their status. When pointed to the formal and categorical pledges of 1880, and the admission of M. Boeresco in 1879, which directly contradicted and repudiated her contentions in this regard, and, moreover, when reminded that Great Britain, France, and Germany had recognized her independence only after she had specifically and emphatically renounced such a theory, she simply points to the equivocal revision of Article VII of her constitution, which Europe had accepted under pressure and protest, and declares that she is bound by that alone.

Strange to say, no attempt is ever made by Roumania to conceal the hypocrisy or to hide the bad faith of her astonishing defense. Indeed, eminent writers of Roumania have frequently boasted of the trick which was successfully played on Europe. One of these, M. Suliotis, writes in this manner:

> The Treaty of Berlin was thought to work wonders in favor of the strangers, but Roumania has been wise enough to escape the inconveniences which might have resulted from the application of Article VII in the sense of the Treaty of Berlin, which has had no other effect than to render more difficult the situation of the aliens.

Again, writing in the *Romanul* of December 25, 1881, M. Rosetti, an ex-minister and one of the leading statesmen of the kingdom, has this to say:

> We may congratulate ourselves to-day on having solved the Jewish question in a national sense, and that—we may now avow loudly—contrary to the manifest will of the powers and even contrary to the spirit of the Treaty of Berlin.

The solution of "the Jewish question" in "a national sense," it will be readily seen, was by the simple method of having the Roumanian Parliament pass laws antagonistic to "strangers," and then have all public officials of Roumania regard the Jews as "strangers," in the application of those laws.

Nothing can better illustrate the determined efforts of the Roumanian government to evade its pledges in the matter of the Treaty of Berlin than its systematic legislation against "strangers," which was, in fact, intended to apply only to the Jews. The following classified list of laws, discriminating against the Jews, will prove conclusively that Roumania, from the very beginning, never had any intention of fulfilling her obligations under Article XLIV of that treaty:

> October 21, 1879. Roumanian Senate passes law stating that distinction of religion shall not be a bar to civil or political rights, but that "strangers" may obtain naturalization only by special law on individual demand and after ten years' residence. (Article VII of constitution; Sincerus, pp. 3-4.)
>
> June 6, 1880. The directors and auditors of the National Bank of Roumania must be Roumanians. (Sincerus, p. 77.)
>
> March 18, 1881. Law of expulsion passed, authorizing Minister of Interior to expel or order from place to place, without giving reason, any "stranger" likely to disturb public tranquillity. (Sincerus,

p. 146; originally intended against Nihilists after murder of Czar, but afterwards applied to Jews.)

July 16, 1881. Law promulgated declaring that all "*agents de change*" or "*courtiers de merchandise*" must be Roumanians or naturalized, except in the ports (where there are Christian "strangers"). (Sincerus, p. 45.)

October 21, 1881. Ministerial council extends the law excluding Jews from the sale of liquors in rural districts to cities and towns included in such districts. (Sincerus, pp. 22-23.)

November 11, 1881. All "strangers" in Roumania required to obtain a permit of residence before they may pass from place to place. (Sincerus, p. 163.)

February 26, 1882. Jews forbidden to be custom-house officers. (Sincerus, p. 53.)

November 3, 1882. Roumanian Senate passes law declaring all "inhabitants" liable to military service, except subjects of alien states. (Sincerus, p. 35.) See above, June 23, 1868.

January 31, 1884. Roumanian Senate decides that "strangers" have no right of petition to Parliament. (Sincerus, p. 197.)

March 19, 1884. Law passed prohibiting hawkers from trading in rural districts. (Sincerus, p. 65.)

April 15, 1885. Pharmacy law permits Minister of Interior to close any pharmacy not under direction of a recognized person; pharmacies may be acquired only by Roumanians or by naturalized citizens; permission to employ "strangers" extended to 1886. (Sincerus, p. 104.)

March 13, 1886. Electors of chambers of commerce must be persons having political rights. (Sincerus, p. 75.)

June 16, 1886. Druggists must be Roumanians or naturalized citizens. (Sincerus, p. 84.)

December 7, 1886. Account books must be kept in Roumanian or in a modern European language. (Sincerus, p. 81; the object was to keep out Yiddish.)

February 28, 1887. All employees of the *regie* must be Roumanians or naturalized. (Sincerus, p. 29.)

April 28, 1887. Farmers of taxes in Roumania must be persons capable of being public officers. (Sincerus, p. 89.)

May 22, 1887. Majority of administrators of private companies must be Roumanians. (Sincerus, p. 78.)

May 24, 1887. Five years after the foundation of a factory two-thirds of its workmen must be Roumanians. (Sincerus, p. 94.)

August 4, 1887. Ministerial circular orders preference to be given to children of Roumanians in the order of admission to public schools. (Sincerus, p. 123.)

1889. Of 1,307 permits issued to hawkers, only 123 went to Jews; of these, only six were held in Wallachia. (Sincerus, p. 70.)

August 31, 1892. Retired Jewish soldiers are not allowed to serve as rural gendarmes. (Sincerus, p. 40.)

April 21, 1893. Professional education permitted to "strangers" only when places are available and on payment of fees. The number of "strangers" on the roll of such an educational institution must not exceed one-fifth of the total roll, and these may not compete for scholarships. "Strangers" are not admitted at all to schools of agriculture. (Sincerus, p. 138.)

May 20, 1893. Roumanian Senate passes law giving preference to children of Roumanians in elementary public schools and placing a tax on children of "strangers" admitted. (Sincerus, p. 129.) This tax amounted to fifteen francs for rural and thirty francs for urban schools. (*Ibid.*, 127.)

June 26, 1893. Royal decree declaring all functionaries in the sanitary service must be Roumanians except in rural districts. "Stranger" invalids may be admitted to free public hospitals only on payment of fees, and they may not in any case occupy more than ten per cent of the beds. A "stranger" may be taken as an apprentice by an apothecary only where there is a Roumanian apprentice. (Sincerus, pp. 106, 110, 115.)

January 26, 1894. Farmers may be represented in law courts by their stewards if the latter be Roumanians, not Jews. (Sincerus, p. 44.)

May 22, 1895. Students in the military hospitals and army doctors must be either Roumanians or naturalized citizens. (Sincerus, p. 117.)

April 13, 1896. Jews may not act as intermediaries at the customs in Roumania. (Sincerus, p. 54.)

June, 1896. A ministerial order declares that letters on school business—excuses for absence, etc.—need not be stamped except in the case of "strangers"; only children of "strangers" are required to pay entrance fees at examinations. (Sincerus, p. 130.)

June 26, 1896. Ministerial order instructs rural council that permission to remain in a rural district may be revoked at any moment. (Sincerus, p. 185.)

April 4, 1898. Law permitting secondary instruction of children of "strangers" only where places are available and on payment of fees, though to Roumanians tuition is free. (Sincerus, p. 133.)

October, 1898. Admission to public schools in Roumania refused to 11,200 Jewish children. (Sincerus.)

February 18, 1899. Only Roumanians henceforth admitted as employees on state railways. (Sincerus, p. 97.)

October 21, 1899. Ministerial order closes private Jewish schools in Roumania on Sundays. (Sincerus, p. 14.)

1900. Number of Jewish children in elementary public schools in Roumania reduced to 5½ per cent; in secondary schools, from 10½ per cent (in 1895) to 7½ per cent. (Sincerus, p. 133.)

February 27, 1900. Ministerial circular orders pupils to receive instructions in Jewish private schools with heads uncovered. (Sincerus, p. 143.)

March 28, 1900. On private railways sixty per cent of the employees must be Roumanians. (Sincerus, p. 99.)

April 17, 1900. Ministerial circular orders Jewish private schools to open on Saturdays. (Sincerus, p. 142.)

March 16, 1902. Artisans' bill requires special authorization from the authorities to carry on any trade, only to be obtained by "strangers" —i.e. Jews—on production of foreign passports, and proof that in their "respective countries" reciprocal rights are accorded to Roumanians. (*American Jewish Yearbook*, 1902-3, p. 30.)

The culmination of Roumanian meanness and malignity was reached in the passage of the artisans' bill. Other measures had been designed to cripple and harass, to degrade and humiliate them, but this bill was evidently intended to starve the Jews to death, for it inevitably deprived many thousands of Jewish artisans of the only means of earning their daily bread. The ludicrous absurdity as well as the fiendish cruelty of such a law are shown by the fact that, under its provisions, no "foreigner" was permitted to exercise a handicraft in Roumania unless "he could show reciprocity for Roumanians in his own country." The Jews being "foreigners not under any foreign protection" were unable to prove this reciprocity. They were therefore unable to carry on any trade without violating the law.

Another characteristic illustration of the ingenious method employed by the Roumanian Parliament in framing laws to evade the spirit, if not the letter, of the Treaty of Berlin is afforded by the military law of November 3, 1882. By Article I of this law "all the inhabitants" of the country are liable to military service. By Article II "subjects of foreign states" are declared ineligible for entrance into the army. The Jews being "inhabitants" of the country, but not "subjects of foreign states," are required to perform military service, although deprived of all civil and political rights, because of their status as "strangers." Although forced to risk the dangers and bear the burdens of war as privates in the ranks they are denied promotion on the ground that "service in the army is a duty, while the rank of officer is a public function reserved for Roumanian citizens." These distinctions and the reasons for them were all solemnly declared in a speech by M. Bratiano in the Roumanian Senate May 27, 1882. But it is needless to elaborate the question at greater length.

The hideous result of long years of persecution and oppression, of riot and massacre, has been that the Jews of Roumania have been barbarized and impoverished and that life for most of them has been rendered an intolerable burden. Within the last ten years sixty thousand of them have been forced to emigrate and a hundred thousand others have been reduced to a state approaching vagabondage.

Shall these frightful conditions continue to exist? Shall the barbarous practices of a semi-civilized people forever violate the precepts and shock the sentiments of civilization? Shall Article XLIV of the Treaty of Berlin become as dead a letter upon the statute books of nations as did Article XLVI of the Conference of Paris? What says old England, the land of Magna Charta, of the Bill of Rights, the Petition of Rights, and *habeas corpus*, the birthplace of Hampden, Pym, and Cromwell, the grandest and most majestic among the commonwealths of the earth? What says she, a party to the Treaty of Berlin? Shall the mighty power that conquered Napoleon and preserved the liberties of Europe be forever defied and mocked by a petty and contemptible little Balkan state? What says France, the brilliant and beautiful among the nations, whose chivalric sympathies sent Rochambeau and Lafayette as ambassadors of freedom to our shores? What says she, a party to the Treaty of Berlin? Shall the bad faith and insolence of Roumania go forever unpunished and unrebuked while France, the dauntless and eternal champion of the rights of man, stands mute and motionless? And last, but not least, what says America, the country of Washington, the Republic of Jefferson, the Union of Lincoln, whose Goddess of Liberty in the harbor of New York brandishes forever a torch of freedom as a beacon light to the oppressed and distressed of all the world? What says America, the protagonist of republican virtue and the model of newborn republics throughout the earth? Shall she give no response and make no protest when a suffering and helpless peoples ask for sympathy and aid?

But it is contended that America was no party to the Treaty of Berlin and that it would be improper therefore for her to seek to interfere in the local affairs of Roumania. There is a grain of truth in this contention, but only a grain. The fatal defect in the argument is that the barbarous persecution and merciless oppression of any race within the borders of any country causing wholesale emigration of the members of that race to other countries as a means of preserving life are the internal affairs of the state guilty of the persecution and oppression with which other countries have no concern and in which they should not interfere. Such a contention wrongfully assumes that the intercessory and intervening powers of civilized nations are suspended and paralyzed when the laws of humanity and the rights of races happen to conflict with the local arrangements of some small despotic government.

Whether rightfully or wrongfully, America has already protested, in vigorous and solemn terms, against Roumanian oppression of the Jews; and this protest was not born of the hurry and heat of a political convention or of any other voluntary association of irresponsible persons. It was a calm and deliberate act of American diplomacy, the product of one of the noblest and finest of American intellects.

Following the passage of the artisans' bill of March 16, 1902, which was designed to prevent the Jews from earning a livelihood by any form of handicraft or trade, Mr. Secretary Hay, on August 11, 1902, addressed a ministerial note of protest to the Roumanian government, pointing out the tendency of such legislation to produce an abnormal stream of emigration to the United States. The following is the essential passage of that note:

> The teachings of history and the experience of our own nation show that the Jews possess in a high degree the mental and moral qualifications of conscientious citizenhood. No class of immigrants is more welcome to our shores when coming equipped in mind and body for entrance upon the struggle for bread and inspired with the high purpose to give the best service of heart and brain to the land they adopt of their own free will; but when they come as outcasts, made doubly paupers by physical and moral oppression in their native land and thrown upon the long-suffering generosity of a more favored community, their migration lacks the essential conditions which make alien immigration either acceptable or beneficial. So well is this appreciated on the Continent that even in the countries where anti-Semitism has no foothold it is difficult for these fleeing Jews to obtain any lodgment. America is their only goal.
>
> The United States offers asylum to the oppressed of all lands, but its sympathy with them in no wise impairs its just liberty and right to weigh the acts of the oppressor in the light of their effects upon this country and to judge accordingly.
>
> Putting together the facts now plainly brought home to this government during the past few years, that many of the inhabitants of Roumania are being forced by artificially adverse discriminations to quit their native country, that the hospitable asylum offered by this country is almost the only refuge left to them, that they come hither unfitted by the conditions of their exile to take part in the new life of this land under circumstances either profitable to themselves or beneficial to the community, and that they are objects of charity from the outset and for a long time, the right of remonstrance against the acts of the Roumanian government is clearly established in favor of this government. Whether consciously and of purpose or not, these helpless people, burdened and spurned by their native land, are forced by the sovereign power of Roumania upon the charity of the United States. This government cannot be a tacit party to such an international wrong. It is constrained to protest against the treatment to which the Jews of Roumania are subjected, not alone because it has unimpeachable ground to remonstrate against the resultant injury to itself, but in the name of humanity. The United States may not authoritatively appeal to the stipulations of the Treaty of Berlin, to which it was not and cannot become a signatory, but it does earnestly appeal to the principles consigned therein because they are the principles of international law and eternal justice, advocating the broad

> toleration which that solemn compact enjoins and standing ready to lend its moral support to the fulfillment thereof by its cosignatories, for the act of Roumania itself has effectively joined the United States to them as an interested party in this regard.

It might be well to add that a copy of this note of Mr Hay, American Secretary of State, to the government of Roumania was simultaneously sent to the governments of Great Britain, France, Germany, Italy, Russia, and Turkey, the signatory powers of the Treaty of Berlin. By this act the United States served notice upon Roumania and upon the great powers of Europe that she considered herself a party to that treaty, if not by direct signature then at least by the laws of humanity, by the principles of eternal justice, by the binding obligations of international law in which all civilized peoples have a common interest, and by the right of self-preservation involved in the necessity of protecting her own population and her own civilization against the barbarized and impoverished victims of Roumanian persecution.

This authoritative action of our State Department some ten years ago is still a landmark and a precedent. No one will question the righteousness of the motive or the soundness of the political principle involved in this action. No one can effectively contend that this diplomatic step should not have been taken. The only regret that can be expressed is that the results accomplished were not greater.

Historical considerations affecting the discussion of the present question are these: A great Balkan war has just been terminated. Roumania was involved indirectly in the struggle. Changes in territory, similar to those brought about at the close of the Russo-Turkish War of 1877-78, will probably be made. The Roumanians, it is said, contemplate revising their present constitution in view of changed conditions. It is more than probable that the great powers of Europe will again be called upon to adjust, in international conference, various questions growing out of the recent war.

Now, after the lapse of ten years, Roumanian persecution of the Jews exists in more acute and malignant form than when Mr. Hay dispatched his note of diplomatic protest. Roumanian laws against the Jews have become more stringent and oppressive. Social discrimination and ostracism have become more pitiless and humiliating. Riot and massacre are still as imminent as ever.

In view of the approaching conference of the powers, what shall be done, what can be done to compel Roumania to act justly and humanely by the Jews within her borders? The powers will have no difficulty, in the matter of the Jews, with any other Balkan state. At the same time and in exactly the same language as that employed in the case of Roumania, Servia and Montenegro promised the Congress of Berlin to guarantee civil and religious freedom to the Jews within their territories in consideration of the recognition of their independence. Both Servia and Montenegro have faithfully kept these pledges, which demonstrates conclusively that there was no inherent difficulty, no insuperable obstacle in the way of Roumania's doing the same thing.

My own opinion is that the United States should accept the invitation of the European powers to become a member of the approaching international congress, if such an invitation is extended. I have been reliably informed that our government was invited to participate in the proceedings of the Berlin Congress, but declined. If we are not invited we should ask that the United States be permitted to be a party to the next conference of the powers. We should then join with other nations in reminding Roumania of existing obligations, and in imposing fresh ones upon her in a manner that will preclude any possibility of violating them in the future. If no new conference of the powers is called, or if the United States for any reason should not be a party to it if one is called, then let us again, and repeatedly if need be, in the language of Mr. Hay, lend our "moral support" to the great cause of civil liberty and religious emancipation, by such representations to the great governments of Europe as will secure prompt and vigorous action on their part, in compelling Roumania, even at this late date, to perform her pledges under Article XLVI of the Conference of Paris and Article XLIV of the Treaty of Berlin. If her sense of national honor and international obligation does not incline Roumania to deeds of justice and righteousness, then let the strong arm of force be used and the wrath of the nations be visited upon her.

But why should we do all these things for the Jews, you ask? The reply is that these things are not to be done primarily for the Jews. They are to be done to promote and maintain civil liberty and religious freedom among men; to prevent offenses against international morality and to uphold the dignity and sanctity of international law; and, above all things, to compel respect for the laws of humanity and regard for the principles of eternal justice. These are the primary objects of action to be taken against Roumania.

But if you challenge me to open declaration I will candidly say to you that I am in favor of doing all manner of good things at all times for the Jews, simply because they are Jews. And in this declaration is no sickly sentimentality, no maudlin sentiment. I am well aware that the Jewish race is not a perfect one. The Jews, along with all the balance of us, have inherited the curse of Eden. The stamp of sin is upon the Jewish as well as upon the Gentile brow. From the records of the courts we gather that there are Jewish as well as Christian criminals. And undoubtedly the sons of Abraham are afflicted at times with all the faults and frailties to which human flesh is heir.

And, again, it should be cheerfully admitted that individual Jews are not entitled to receive and should not receive any particular consideration; any special clemency in the exigencies and crises of life. If Jews steal, they should be sent to prison along with Gentile thieves. If they murder, the death penalty should be administered to them as in the case of others.

If Jews are physically, mentally, or morally unclean, they should be socially ostracized and banished, as should Gentiles who are similarly afflicted. If Jews are guilty of unpardoned sins against the laws of God, they should be consigned to the same place and for the same length of time in the hereafter as in the case of Gentile sinners. These statements and concessions I gladly and cheerfully make. But having said these things, I must be permitted to repeat the declaration that where the Jewish race as such is concerned and its rights are involved in terms of religious persecution all doubts should be resolved in favor of the Jews.

The marvelous contributions of the Jewish people to the spiritual and intellectual wealth of the world entitle them to the gratitude and homage, not the hatred and persecution, of mankind. If gratitude were a supreme virtue of nations, as it should be of individuals, there would never be any organized governmental persecution of the Jews. The civilized nations of this earth are too deeply and everlastingly indebted to the Jews to be able ever to cancel the obligation. They should at least treat them with humanity and accord them those considerations which are the absolute essentials of happiness in a civilized state.

The ghastly feature of Jewish persecution is the fact that it was probably born of the refusal of the Jews to yield the divine unity of Jehovah to the polytheistic demands of ancient Rome. Pompey the Great conquered Palestine and made it a dependent Roman state some sixty-three years before the birth of Christ. The ordinary results and usual incidents of Roman provincial administration followed. Among these was the attempt to blend the religion and mingle the god or gods of the conquered country with the religion and gods of Rome. Jewish monotheism, which civilization to-day prizes as its most precious jewel, was then sought to be destroyed.

The civil and religious differences between Jews and Romans were at once fundamental and fatal. In the first place, these two races have shown themselves to be, by all odds, the most masterful of mankind. The Romans founded the world's greatest physical empire. The Jews founded the earth's most illustrious kingdom of the spirit. In the fiber of both Jew and Roman were to be found those elements of mastery and control that have nowhere else been seen in the organization of any race, with the possible exception of the English. The Romans would brook no earthly opposition and the Jews would submit to none but God. The Romans worshiped a whole host of greater and lesser deities, who inhabited earth and sky, mountains, seas, and streams. Against this polytheism of a most extravagant kind, the Jews pitted the doctrine of monotheism, the jealous and exclusive worship of one great God. Again, polytheism was an integral part of the government of the Roman state, and could not be attacked or derided without constituting an act of treason against the laws of Rome and the sovereignty of Cæsar. On the other hand, the religion of the Jews and their law were identical. To submit to the worship of Roman gods was not only an act of treason to Jehovah, but was also an abrogation of Jewish nationality and a repeal of all Jewish laws. These considerations constituted a definite and acute issue between the Roman masters of the world and the chosen seed of God. The character of each race was such that neither would surrender, and the result was, of necessity, a mere struggle for the survival of the fittest. Both were victorious. The Romans destroyed the physical kingdom of the Jews; the Jews destroyed polytheism, the religious empire of the Romans; and out of the struggle, which lasted for centuries, grew a bitterness and hate that has been handed down to the modern world as a hideous legacy, and from which massacre and persecution have been born and multiplied.

Monotheism is Judaism's great contribution to the religious thought of mankind and to the civilization of the earth. And for consenting that their country should be conquered, their nationality destroyed, and their race dispersed throughout the world, in order that this best and noblest gift of God to man might not be sacrificed to pagan and barbarian superstition, but might instead be transmitted as a heavenly heritage to all future generations of men, the Jews have received, not the gratitude and love, but the hate and oppression of the nations.

The Jew is the Prometheus of history. The Æschylean Prometheus snatched fire from the skies and gave it to mankind as a priceless boon. As a reward for his trouble he was chained to a rock while a vulture preyed upon his liver. The Jew received the fire of monotheism from heaven and gave it to man. For his care and solicitude he has been chained to the rock of the ages while the vultures of hatred, persecution, riot, and massacre have preyed upon his heart.

Another hideous feature of Jewish persecution is the fact that its chief intensifying cause for nearly 20 centuries has been a total misunderstanding and misconception of the real facts and true meaning of the crucifixion of Jesus. The cruel and senseless notion of the implacable wrath of Deity has prevailed in all the ages as an explanation of the destruction of Jerusalem and the dispersion and persecution of the Jews. It is worse than nonsense to see in this event anything but the operation of vulgar physical forces of the most ordinary kind. The fall of Jerusalem was a most natural and consequential thing. It was not even an extraordinary historical occurrence, even in Jewish history. Titus did not so completely destroy Jerusalem as did Nebuchadnezzar before him. Razing cities to the ground was a customary Roman act, a form of pastime, a characteristic Roman proceeding in the case of stubborn and rebellious towns. Scipio razed Carthage and drove Carthaginians into the most remote corners of the earth. Was any Roman or Punic god interested in this event? Cæsar destroyed many Gallic cities and scattered Gauls throughout the world. Was any deity concerned about these things?

Roman admiration was at times enkindled, but Roman clemency was never gained by deeds of valor directed against the arms of Rome. Neither Hannibal nor Mithridates, Vercingetorix nor Jugurtha, the grandest of her enemies, received any mercy at her hands. To oppose her will was to invite destruction; and the sequel was a mere question of "the survival of the fittest." The most turbulent, rebellious, and determined of all the imperial dependencies was the province of Judæa. The Jews regarded the Romans as idolaters, and instead of obeying them as masters, despised and defied them as barbarians. When this spirit became manifest and promised to be perpetual the dignity of the Roman name, as well as the safety of the Roman State, demanded the destruction of Jerusalem and the dispersion of the Jews; and destruction and dispersion followed as naturally as any profane effect follows any vulgar cause.

But the advocates of the divine-wrath theory quote Scriptures and point to prophecy in support of their contention. Then Scriptures must be pitted against Scriptures. The last prayer of the Master on the cross must be made to repeal every earlier Scriptural prophecy or decree. "Father, forgive them, for they know not what they do," is the sublimest utterance in the literature of the world. It is the epitome of every Christian virtue and of all religious truth. This proclamation from the cross repealed the Mosaic law of hereditary sin, placed upon a personal basis responsibility for offenses against God and man, and served notice upon future generations that those who "know not what they do" are entitled to be spared and forgiven. To believe that God ignored the prayer of Christ on the cross, and that the centuries of persecution of the Jews which followed were but the fulfillment of prophecy and fate, is to assail the Messiahship of Jesus and to question the goodness and mercy of Jehovah. Jesus knew the full meaning of his prayer and was serious unto death. To believe that the Father rejected the petition of the Son is to destroy the equality of the persons of the Trinity by investing one with the authority and power to review, revise, and reject the judgments and petitions of the others.

If the Christian doctrine be true that Christ was God "manifest in the flesh"; if the doctrine of the Trinity be true that God the Father, God the Son, and God the Holy Ghost are one and the same, eternal and inseparable, then the prayer of Jesus on the cross was not a petition, but a declaration that the malefactors of the crucifixion who, in the blindness of ignorance, had helped to kill the Son of Man, would receive at the last day the benefits of the amnesty of the Father of mercy and forgiveness.

If the perpetrators of the great injustice of the Sanhedrin and of the Pretorium are to be forgiven because they knew not what they did, is there any justice, human or divine, in persecuting their innocent descendants of all lands and ages?

> When Sir Moses Montefiore was taunted by a political opponent with the memory of Calvary and described by him as one who sprang from the murderers who crucified the world's Redeemer, the next morning the Jewish philanthropist, whom Christendom has learned to honor, called upon his assailant and showed him the record of his ancestors which had been kept for two thousand years and which showed that their home had been in Spain for two hundred years before Jesus of Nazareth was born.

This half-humorous anecdote illustrates the utter absurdity and supreme injustice of connecting the modern Jew with ancient tragic history. The elemental forces of reason, logic, courage, and sympathy wrapped up and interwoven in every impulse and fiber of the human mind and heart will be forever in rebellion against the monstrous doctrine of centuries of shame, exile, and persecution visited upon an entire race because of the sins and crimes of a handful of their progenitors who lived more than a thousand years before.

But if the visitation of the sins of the fathers upon the sons is to be maintained and perpetuated as a form of divine, if not of human justice, why not, at least, be consistent in the application of the principle? Many philosophers and critics have detected a striking kinship between the teachings of Socrates and those of Jesus. A celebrated historian closes a chapter of the history of Greece with this sentence:

"Thus perished the greatest and most original of the Grecian philosophers (Socrates), whose uninspired wisdom made the nearest approach to the divine morality of the Gospel."

The indictments against the philosopher of Athens and the Prophet of Nazareth were strikingly similar. Socrates was charged with corrupting Athenian youth; Jesus, with perverting the nation. Socrates was charged with treason against Athens; Jesus, with treason against Rome. Both were charged with blasphemy—the Athenian with blasphemy of the Olympic gods—the Nazarene with blaspheming Jehovah. Both sealed with their blood the faith that was in them. If the descendants of the crucifiers of the Christ are to be persecuted, brutalized, and exiled for the sins of the fathers, why not apply the same pitiless law of hereditary punishment to the descendants of the Athenian dicasts who administered hemlock to the greatest sage of antiquity? Why not persecute all the Greeks of the earth, wherever found, because of the injustice of the Areopagus? [4]

Let no persecutor of the Jew lay the unction to his soul that he is justified by the tragedy of Golgotha, for he who persecutes in the name of religion is a spiritual barbarian, an intellectual savage. Let this same persecutor not make the mistake of supposing that the Jews are wholly responsible for the persecution that has been heaped upon them. Before he falls into the foolish blunder of such a supposition, let him ponder the testimony of several Gentile experts upon the subject. Let him read "The Scattered Nation," a brilliant lecture on the Jew by the late Zebulon Vance, of North Carolina, in which occurs this sentence: "If the Jew is a bad job, in all honesty we should contemplate him as the handiwork of our own civilization." Let him find Shakespearean confirmation of this statement in *The Merchant of Venice,* act 3, scene 1. If the Jew-baiter objects that this is the imagination of a poet, let us then point him to the testimony of a great historian and statesman, to prove to him that the Gentile is in great measure responsible for the causes that have produced Jewish persecution.

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[4] I do not belong to the group of those who wish to place together Socrates and Jesus Christ. While admiring and loving the Athenian philosopher, I cannot understand how anyone can dare to bring the two together. (Author's note.)

In the British House of Commons on April 17, 1833, a bill for the removal of the disabilities of the Jews was the subject of parliamentary discussion. Lord Macaulay took part in the debate and spoke as follows:

> What if it were true that they do not regard England as their country? Would not the treatment which they have undergone explain and excuse their antipathy to the society in which they live? Has not similar antipathy often been felt by persecuted Christians to the society which persecuted them? While the bloody code of Elizabeth was enforced against the English Roman Catholics, what was the patriotism of Roman Catholics? Oliver Cromwell said that in his time they were Espaniolized. . . . It was the same with the Calvinists. What more deadly enemies had France in the days of Louis the Fourteenth than the persecuted Huguenots? But would any rational man infer from these facts that either the Roman Catholic as such, or the Calvinist as such, is incapable of loving the land of his birth? If England were now invaded by Roman Catholics, how many English Roman Catholics would go over to the invader? If France were now attacked by a Protestant enemy, how many French Protestants would lend him help? Why not try what effect would be produced on the Jews by that tolerant policy which has made the English Roman Catholic a good Englishman, and the French Calvinist a good Frenchman? . . .
>
> The honorable member for Oldham tells us that the Jews are naturally a mean race, a money-getting race; that they are averse to all honorable callings; that they neither sow nor reap; that they have neither flocks nor herds; that usury is the only pursuit for which they are fit; that they are destitute of all elevated and amiable sentiments.
>
> Such, sir, has in every age been the reasoning of bigots. They never fail to plead in justification of persecution the vices which persecution has engendered. England has been legally a home to the Jews less than half a century, and we revile them because they do not feel for England more than a half patriotism.
>
> We treat them as slaves and wonder that they do not regard us as brethren. We drive them to mean occupations and then reproach them for not embracing honorable professions. We long forbade them to possess land and we complain that they chiefly occupy themselves in trade. We shut them out from all the paths of ambition, and then we despise them for taking refuge in avarice.
>
> During many ages we have, in our dealings with them, abused our immense superiority of force, and then we are disgusted because they have recourse to that cunning which is the natural and universal defense of the weak against the violence of the strong. But were

> they always a mere money-changing, money-getting, money-hoarding race? Nobody knows better than my honorable friend, the member for the University of Oxford, that there is nothing in their national character which unfits them for the highest duties of citizens.
>
> He knows that in the infancy of civilization, when our island was as savage as New Guinea, when letters and art were still unknown to Athens, when scarcely a thatched hut stood on what was afterwards the site of Rome, this condemned people had their fenced cities and cedar palaces, their splendid temple, their fleets of merchant ships, their schools of sacred learning, their great statesmen and soldiers, their natural philosophers, their historians, and their poets.
>
> What nation ever contended more manfully against overwhelming odds for its independence and religion? What nation ever, in its last agonies, gave such signal proofs of what may be accomplished by a brave despair? And if, in the course of many centuries, the depressed descendants of warriors and sages have degenerated from the qualities of their fathers; if, while excluded from the blessings of law and bowed down under the yoke of slavery, they have contracted some of the vices of outlaws and slaves, shall we consider this as a matter of reproach to them? Shall we not rather consider it as a matter of shame and remorse to ourselves? Let us do justice to them. Let us open to them the door of the House of Commons. Let us open to them every career in which ability and energy can be displayed. Till we have done this let us not presume to say that there is no genius among the countrymen of Isaiah, no heroism among the descendants of the Maccabees. . . .
>
> I should think that I insulted the Christian religion if I said that it cannot stand unaided by intolerant laws. Without such laws it was established, and without such laws it may be maintained. It triumphed over the superstitions of the most refined and of the most savage nations, over the graceful mythology of Greece and the bloody idolatry of the northern forests. It prevailed over the power and policy of the Roman Empire. It tamed the barbarians by whom that empire was overthrown. But all these victories were gained, not by the help of intolerance, but in spite of the opposition of intolerance. The whole history of Christianity proves that she has little indeed to fear from persecution as a foe, but much to fear from persecution as an ally.[5]

What more eloquent tribute to the Jew and his achievements could be found in the literature of the earth? And is every word of it not as true to-day when applied to the Jews of Roumania as it was when spoken by Macaulay of the Jews of England more than seventy years ago?

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[5] I have somewhat augmented the quotations from Macaulay's address by including some passages which Congressman Chandler did not include. (Author's note.)

But, if the persecutor of the Jew is not moved by the eloquence of Macaulay or by the satire and sarcasm of Shakespeare, then let him call the roll of Hebrew great names, and watch the mighty procession as it moves. Abraham among patriarchs; Moses among lawgivers; Isaiah and Jeremiah among prophets; Solomon and David among kings; Philo, Maimonides, Spinoza, and Mendelssohn among philosophers; Herschel, Sylvester, Jacobi, and Kronecker among mathematicians and astronomers; Josephus, Neander, Graetz, Palgrave, and Geiger among historians; Mendelssohn, Meyerbeer, Offenbach, Goldmark, Joachim, Rubinstein, and Strauss among musicians; Sonnenthal, Possart, Rachel, and Bernhardt among actors and actresses; Disraeli, Gambetta, Castelar, Lasker, Crémieux, and Benjamin among statesmen; Halévi and Heine among poets; Karl Marx and Samuel Gompers among labor leaders and political economists; the Rothschilds, Bleichröders, Schiffs, and Seligmans among financiers, Auerbach and Nordau among novelists; Sir Moses Montefiore and Baron Hirsch among philanthropists.

Civilization may well rush to the rescue of the Jew when threatened with destruction as a terrified and frantic mother struggles to save a favorite child, for if the Bible and the Talmud of the Jews, with all that they teach and mean, should be stricken from the earth, mankind would relapse with frightful speed into savage and barbaric night.

Liberty may well complain when Jews are persecuted and oppressed, for from the days of Isaiah and Jeremiah, the first great revolutionists of earth, to the times of Gambetta and Castelar, the fierce and uncompromising advocates of republican government in France and Spain, freedom's cause has had no nobler, braver champions than the sons of Israel.

Religion and Literature will gladly join hands with Liberty and Civilization, their dearest children, in protesting against mistreatment of the sons of Abraham, for, in every century of history, with their hands tied behind them and their hearts burdened to the breaking point, with a bitter load of hatred and persecution, Jews have yet managed, from the cave of the prophets and from the manger of the Christ, from the filth of the *Judengasse,* and from the darkness of the hovels of the Ghetto, to plant in the garden of life, in the soil of the soul, the most beautiful and fragrant flowers that bloom and blossom there.

This race deserves the gratitude and homage, not the hatred and persecution of mankind. The parliaments and congresses of enlightened nations, whose peoples are truly grateful, civilized, and free, will in the future extend to the Jewish race, the chief benefactors of mankind, a positive protection, and will guarantee to each and every one of them who is honestly guided and righteously disposed, a free hand with a full swing in the struggle of life. (Loud applause.)

APPENDIX XVII

FOR FREEDOM OF CONSCIENCE AND THE PROTECTION OF RELIGIOUS MINORITIES IN ITALY[1]

ADDRESS BY SENATOR POLACCO

GENTLEMEN of the Senate: After the general debate of these last few days I should have avoided making you listen to another speech if anyone had alluded in the Senate to a matter which I cannot leave unmentioned. The point which I am going to raise is extremely delicate by nature, but it is even more so for me, as you will understand, since I intend to speak on behalf of religious minorities. But I trust, I am certain even, that no one will take offense at my words, since too many acts of my public and private life go to prove my respect, I might say my veneration, toward that faith to which the majority of my fellow citizens belong (Applause), and I am the first to recognize the place of honor which belongs to it, qualified as it is by our constitutional charter as the religion of the state. But that same constitutional charter declares (Article 24) that "All citizens, whatever be their title or rank, are equal before the law. All shall enjoy equal civil and political rights." And I should be guilty of undeservedly wronging the Committee of the Eighteen over which you, Honorable Signor Gentili, preside, if I suspected that your committee wished in any way to make an attempt against this principle of elementary justice with its proposals.

Now, Senator Gentili, I am quite ready to subscribe to the principle which has inspired the closing words of the speech delivered yesterday by you. I am too old a believer and too profoundly convinced of the worth and signification of religion not to be happy that religious sentiment is coming back to illuminate the school and to warm it with its beneficent rays. Surely this purpose might be effected in many ways, or, to be more precise, in a threefold way.

We might derive inspiration from that high conception which places Religion, with a capital R, above the different religions—that synthesis of feelings and principles which is accepted by the followers of different creeds. That Religion has been compared to the mother tongue, of which the different creeds are the various dialects. It could be taught equally to all, this mother tongue, which ought to be common to all, leaving every one free to speak his own dialect at home. This would have been a notable step in the struggle against the so-called "neutralism," really against "indifferentism," which, up to a short time ago, made it seem as if it were little less than culpable to utter in the school the name of God.

Or else, wishing to go a step beyond, we might have made a special religious and catechistic conception compulsory, in addition to all the others. But then, in order not to appear less liberal than Austria (I have personal memories of Austrian treatment of the question in my childhood) we should have to give equality within it to the children of every religious persuasion, of course under the guidance of their respective spiritual leaders or teachers.

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[1] Speech delivered by Senator Vittorio Polacco in the Italian Senate at its meeting of February 7, 1925, during the debate on the budget of the Department of Education.

Or finally, and here we have the third system which has just been presented, we might not be satisfied with religious instruction added to the other prescribed subjects, and so have the religious element penetrate through the whole system of education, in which case such an element could be derived only from the dominant religion, for us the Roman Catholic religion. Be it so; this is a system which I respect, confining myself, in my function of observer of social actions and reactions, to noting it as one example more of that phenomenon by which the pendulum, pushed toward a given extreme, does not stop at the center when it is let free, but at once goes to the opposite extreme. That things are just as I say is shown by a careful reading of the fundamental article of the new law on elementary education, and the Gentili order dated November 13, 1923, and especially the few lines relative to the school schedule. Article 3, which is the basic one of the new law says: "As the foundation of elementary education in all grades, instruction in Christian doctrine shall be imparted according to the form received through the Catholic traditions." The department order dated November 11, 1923, concerning the schedule of hours, the curriculum, and didactical prescriptions says, in the instructions relative to the time schedule:

> Religion, which the law considers as the foundation of elementary studies, is given a considerable place in many subjects taught, for its spirit necessarily penetrates through them. The course in singing prescribes religious hymns, and the courses in Italian present many occasions to recall and extol heroes of the faith. Intellectual recreative occupations may give occasion to religious stories told by the teacher. The hours for the study of religion are not many, but they must be devoted mainly to meditation over the arguments indicated in the special program which are—as it were—the point of concentration of all the elements of culture scattered through the different courses.

If it is so, it is of little use that Article 3 of the law says in its last paragraph—and it would have been tyrannical not to say so—that the children whose parents declare that they wish to provide personally for religious teaching are exempted from the catechistic instruction given in school. Even eliminating those few weekly hours of formal religious instruction, all the subjects taught in school—as you have heard—must bear the religious imprint, even as to singing, which is to be especially liturgic. It must be, therefore, impregnated with that faith which I highly respect, but which is not the faith of all those children and their families. (Applause.)

Gentlemen of the Senate, my children have all attended public schools, from kindergarten up, because I wanted to see strengthened the ties which must bind them to their brothers and sisters belonging to every faith and to every class of society (gestures of assent), and I was quite satisfied with my decision, but I ask you if I could do the same now in the primary classes! (Applause.)

The greatest ideal in all grades of instruction, but especially at the moment in which

Issues the simple soul, that nothing knows
Save that, proceeding from a joyous Maker
Gladly it turns to that which gives it pleasure.[2]

this greatest ideal undoubtedly is harmonious collaboration between parents and teachers, through which school and home make complete the work of education.

Instead of that, we have here an abyss between school and home for all religious minorities, in what ought to be the most intimate and sacred part of the formation of the child's character.

Think a moment, gentlemen of the Senate, of all that Catholicism possesses of attraction and of poetic ideal in its dogma, in the depth of its mysteries, in the pomp of the worship in which all arts concur, all senses are gently rocked and penetrated, in order that the spirit may free itself to rise to the celestial spheres! I am perfectly able now—mature as I am in years and experience, and firm in my convictions—to enter a school where the Catholic doctrine is expounded and, provided it be not a simple mnemonic instruction, I may admire and be exalted. I may, whether happy or sad events make me an attendant, witness in a great cathedral or in a humble little church those solemn rites, which indicate in the best possible manner the three great events of our life: birth, marriage and death; I may well feel my soul conquered and in perfect accord with those who approach the altar. All this I can do without renouncing that faith which I have learned from my blessed mother's lips. But tell me now, gentlemen of the Senate, whether as much may be assumed for the child who returns home from a school in which all these chords have been made to vibrate, chords which are particularly resounding in the mind of children, when they find nothing in their homes which corresponds to what they hear in school, because, although in their homes the conception of divinity is certainly very high, it is almost entirely without those extrinsic elements that are apt to impress the child's mind.

Then it happens that either that soul abandons the family for the school, or is lost, confused between contrary currents; then it probably ends by falling into that religious indifference which Senator Gentili has justly deprecated. If this indifference, which is the desert of the heart, is an evil, it is an evil for all of us, and we must be very watchful to see that it does not touch even those who belong to religious minorities. We must do it as an homage to freedom of conscience, we must do it in remembrance of an array of patriots who issued from these minorities, among whom were Giuseppe Finzi, Isacco Pesaro-Maurogonato, Isacco Artom, Giacomo Dina, the members of the heroic Venezian family, Giuseppe Revere, Angelo Donati, my venerated cousin, whom Garibaldi loved and who was among the boldest and most fearless of the Thousand, Leopoldo Franchetti, who could not survive the disaster of Caporetto. I could add many names to this list: but I shall mention only two: Sonnino, Christian but not Catholic, and Luigi Luzzatti, both ardent patriots, who were called to the highest place in the government of the nation, on account of the great freedom of the principles which thus far have been dominant in Italy.

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[2] Dante's *Divine Comedy*, "Purgatory," Canto XVI, 1.88ff. (Longfellow's translation). (Translator's note.)

No petty sentiment has induced me to mention these names, no such sentiment as I might call the cultural egotism of the parish, which my soul abhors, just as it abhors every provincial or regional egotism. I wish only to show that there is no conflict between belonging, if only by birth, to a different creed from the dominant one, and a devotion toward our beloved country that goes as far as the supreme sacrifice, or martyrdom. (Gestures of approval.)

I feel no special tie of solidarity with my coreligionists when I leave the synagogue. There has been talk of a certain international banking organization in which may be found men who are nominally followers of my own faith, but who not seldom are renegades. Strike at them, strike at them unflinchingly, and I shall be the first to applaud, because such men have profaned the temple. (Applause.) But when we are on the pure ground of faith, in the sanctuary of conscience, let us do nothing which harms it, for every such attempt is sacrilegious, and the first to say so will be the most sincere and fervent Catholics, among whom I am happy to count many dear friends. One of them, our eminent colleague Count Grosoli, pointed out to me another blow that would be dealt the minority creeds—I do hope, involuntarily—by the Press Bill which justly imposes severe penalties upon those who offend the Christian religion, but which says nothing of other creeds, as if they were to be insulted with impunity. Senator Grosoli said to me on that occasion that when he should read a slur against Judaism he would feel it as an insult to his own creed, which is, after all, the eldest child of that older religion.

But, you may ask, what may be the remedy for this state of affairs? If there were only a few sporadic cases we might submit before the prevalence of numbers, and provide as we could for ourselves, but you must remember that in Italy—to say nothing of non-Catholic Christians (and I understand that some concessions have been made to the Waldensians centered in a few towns)—there are large Jewish communities where the humble—unable through lack of means and other considerations to substitute home or private instruction for that of the public school—number several hundred individuals. Here in Rome—where a Jewish community has existed for over two thousand years—the children of the Hebrews number nearly seven hundred, and last year they represented in the Lungotevere Cenci Quarter fifty per cent of each of the four elementary schools of that district. Elementary education is compulsory, and we have heard the Minister of Education say that the age of compulsion was to be extended to fourteen years. . . .

Fedele, *Minister of Public Education.*—It has already been so raised.

Polacco.—So much the better; forgive my ignorance. Elementary education, I said, is compulsory for all. Must we here, in Rome, whence always has issued and always will issue the word of the just law, force those hundreds of children to attend a school at which their religious conscience will become warped away from that of their families? Signor Casati thought in this connection of an amendment, which might have been a lesser evil—because the best way would be, in my opinion, to place all our children in one school—but his measure was not adopted. Consider it again, gentlemen, and spare Italy the reproach of not suiting the action to the word. You know that in the special treaties concerning the small states, new and old, of central and eastern Europe, there was inserted a clause relative to the protection of religious and racial minorities, a *sine qua non* of their membership in the family of civilized nations. It would have seemed an insult to the dignity of the greater powers, ours among them, to repeat for them an identical clause, for this conception seems—and is—part of their civilization. Not to observe it determinedly in all our internal affairs would be to reject the most vital principles of modern public law.

Gentlemen of the Senate, may I ask that you proceed in such a way that I, and all those who, like me, have always worshiped equally our country and the faith of our forbears, may not see eclipsed that perfect light of equality and religious tolerance which has shone until now in the institutions of our country; for were it dimmed, we should feel it as a moral pogrom, not less atrocious than the physical ones inflicted by fanatical mobs in countries less enlightened. (Applause.)

Our distinguished colleague, and my dear friend, Senator Tommasi, has the distinction of having begun here a few days ago a lofty debate on ecclesiastical policy, during the discussion of the budget for religion. I have followed his example, and, mounting another step, I have spoken of the religious question in general. It is time, indeed, that such problems were openly faced. Whatever be the result of your deliberation, the firmness of our faith and the purity of our ideals will always be a consolation to us. (General applause, and congratulations for the speaker.)

Senator Polacco's motion was as follows: "It is the sense of the Senate that, granted the fundamental character of the proposed elementary school education, a way ought to be found to take into consideration the needs of the pupils whose parents are members of religious minorities."

Minister Fedele, at the close of the general debate, expressing himself upon the motions offered, said:

As to Senator Polacco's motion, I am happy to join in the tribute of the whole Senate to his lofty and dignified address. Senator Polacco may be sure that all the members of the government have a deep respect for every religious creed, and especially for the noble religion of which Senator Polacco is a member, that of Israel. The question that he has raised has been in my mind since I assumed the portfolio of Public Education. I give Senator Polacco my promise that I shall examine carefully the measure presented by my predecessor, Signor Casati, which I do not know in all its details. As I am unable to undertake a formal engagement, I accept Senator Polacco's motion as a recommendation.

POLACCO.—I thank the Honorable Minister for his expressions, which give me as great satisfaction as the approval of my colleagues of the Senate.

I need not say that I do not insist upon the motion; in fact, I think that there is no need to change it into a recommendation, for my remarks have already had their full effect.

APPENDIX XVIII

RELIGIOUS SCOTLAND ON THE ROAD TO UNION

THE two main currents of the religious life of Scotland continue to converge toward the desired goal of union. A convention of the representatives of the Church of Scotland and of the United Free Church was held at the end of January, 1926. Over three hundred attended the convention. No motions were offered, or votes taken. There were speeches from both parties, all showing the spirit of brotherly concord. The Rev. Mr. Harvey remarked upon how the spirit of western Christianity had struggled between action and counteraction of church and state, and he wondered whether the Scottish people have fully understood the immense change which has taken place in the relations between the two great institutions. He affirmed that union will be unanimously approved if its conditions satisfy both church and people. All must prepare for union with prayer, and, as the late Lord Balfour of Burleigh said, all must agree and none remain aloof. This is the end to be reached, and, whether the road be short or long, union must be the result of a unanimous movement. Every man must be enrolled for the glory of God and the prosperity of the Church of Scotland.

There were many other speeches, notable among others that delivered by Lord Sands, one of the conciliators of the churches.

Thus, without emphasis or impatience, and in the firm expectation that every believer in Scotland will spontaneously come to an accord, the idea of union is taking root, and will be realized by men who are fully persuaded otherwise than by perfunctory adhesions.

APPENDIX XIX

A HYMN TO RELIGIOUS FREEDOM ISSUING FROM THE SOUL OF A GREAT LIBERATOR (BOLIVAR)

I HAVE found a hitherto unpublished document in the magazine *Cultura Venezolana*, a publication open to all intellectual questions, and particularly to the problems of Venezuela and of Hispano-American life. The magazine is edited by José A. Tagliaferro, the eminent President of the Senate of Venezuela, a gentleman who honors both the country of his birth and that of his adoption.

The document in question is a rough draft of the famous speech in which General Simon Bolivar, the Liberator of three republics, and the Washington of South America, presented in 1825 to the legislative assembly of the newly born republic of Bolivia the constitution that he had drafted; thus had he served with his pen too the liberty which he had fought for and finally won on the battlefield.

That part of the speech which I reproduce here has strongly moved me, and it agrees so entirely with my own thought that I delayed the printing of this volume in order that the great Liberator's luminous words should appear here next to so many other hymns sung by so many other great souls to religious freedom:

> Gentlemen: I shall here mention an article which, in conscience, I felt obliged to omit. In a constitution there can be no place for the prescription of a particular religious faith, because the laws must be a guarantee only of political and civil rights. As religion does not touch any of these rights, its character cannot be defined in the social order, and it belongs to moral metaphysics. Religion governs man in the home, and belongs of right to conscience. Laws, on the other hand, aim at the surface of things, and govern only outside the home; how can the state, then, rule the conscience of its subjects? How can it execute religious laws, and apply rewards and punishments, when the courts of justice are heaven, and the judge is God? Since religion is the law of conscience, any law exercised upon it destroys it, for faith is its only guarantee, and any compulsion, any application of force to duty, would annul faith. Sacred precepts and doctrines are certainly true, useful and luminous. It is evident that we must all believe in a religion and profess it; but this is a purely moral duty, a metaphysical one in a sense, because it belongs to the spiritual order. What are the religious rights of men? These rights are in heaven; there, merit is rewarded and justice done according to the code of the Great Legislator. This jurisprudence being divine, it seems to me at first sight a sacrilege and a profanation to mingle our institutions with the commandments of God. It is not the task of the earthly legislator to prescribe a religion. He must fix penalties for the infraction of the

> laws which he makes, and if he does not do so, these laws become nothing but recommendations. The moral development of man is the first intention of the legislator; when that development reaches completion, man rests his morals upon eternal truths, and professes a religion, which becomes the more efficacious as it is the result of self-investigation. The pastor is obliged to teach a knowledge of heaven, the father may not neglect his religious duty toward his children . . . but morals cannot be ordered, nor is the man in power of necessity a teacher, nor might force be used behind such a teaching. God and His ministers represent the authority of religion, the arms of which are exclusively spiritual.

The Bolivians who inherited it did not faithfully shape a constitution proper to so high a kind of standard as this. But Bolivar's words remain as an example of high wisdom for the intangible heritage of conscience; they are among the purest, as well as the first, uttered by any modern legislator; they show that the seed of morality is not the possession of the East or of the West, but springs from every superior soul, as this did—a hymn pleasing to God—from the soul of the warrior Solon on the solitary slopes of the Andes.

AMERICAN SUPPLEMENTARY CHAPTERS

AMERICAN SUPPLEMENTARY CHAPTERS

THE PROGRESSIVE WORLD STRUGGLE OF THE JEWS FOR CIVIL EQUALITY [1]

BY

WILLIAM HOWARD TAFT

WITHIN the limits of this address one can hope to give only the merest sketch of the history which the subject of the Jews involves.

I need not pause to emphasize the remarkable character of the Jewish people. They are unique in that for eighteen hundred years they have had no country, have been dispersed to the four quarters of the globe, and yet have retained their religion, their cohesion, their intellectual capacity, their loyalty to their race, and have, whenever there was any pretense of equality of opportunity for them, forged their way ahead into positions of prominence, influence, and power in business, in professions, in philosophy, in art, in literature, and in government.

They have at the same time made loyal subjects or citizens of the countries in which they have lived whenever they have been accorded any reasonable protection of civil rights. No other people has ever been subjected to such continuous persecution in denial of opportunity to make a living and pursuit of happiness, in humiliating restriction upon their liberty, in exclusion from education, and indeed in actual physical cruelty and massacre.

During the three hundred years before Christ, the Jews were under Greek control and influence. Jerusalem was attacked many times and sacked, with the consequent dispersion into other countries of many of its people. They migrated into Syria, into Arabia, into Egypt, and became numerous and prominent in Alexandria. Indeed, there were, it is said, as many as a million Jews in Egypt before the Christian era.

When the Roman and the Parthian empires constituted the world, Jews were to be found in every commercial center, and in each there was a Jewish community and synagogue and a relationship maintained with Jerusalem.

The Jews flocked to Rome. Tiberius issued an order excluding them, but it was only enforced for a short time and they returned in great numbers. Although the Emperor Claudius announced his intention of banishing them again, they were so many that he gave it up.

In the first and second centuries after Christ, Nero, Vespasian, Titus,

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[1] An address delivered by the late President William Howard Taft before the National Geographic Society at Washington, D. C., in 1917, and printed in the *National Geographic Magazine* for July, 1919, as revised.

Trajan, and Hadrian found the Jews of Palestine unruly and undisposed to yield to their authority, and campaigns were waged against them. Jerusalem was taken in the year 70 by Titus and the Temple destroyed. In the year 135 it was taken again by Hadrian's generals and the city destroyed.

Hadrian rebuilt the city and substituted a temple to Jupiter in the place of the temple to Jehovah. The Jews were expelled from the city and forbidden to come within sight of its walls. This brought about the great "diaspora," or second dispersion, which sent the people of Israel to the uttermost parts of the earth, some going voluntarily and others taken as prisoners. It is said that 80,000 prisoners were sent to Spain, where they found the Jewish communities which had moved on from Rome.

After the expulsion from Jerusalem, the scribes and Pharisees established a school and Sanhedrin at Jamnia, in Palestine, and somewhat later the center of church authority became Tiberias, on the Sea of Galilee, and for two hundred years an autonomous patriarchate under the Roman Empire flourished there. Here were institutions of learning in which the rabbis codified the traditions called the Oral Law into the Palestinian Talmud.

The seat of Jewish ecclesiastical authority then passed from Tiberias, in Palestine, to Babylonia, where great schools were established at Nehardea and Sura. In Babylonia three institutions of learning were conducted by the rabbis, who in the course of two hundred years framed the Babylonian Talmud.

The written law was the law of Moses, contained in the Pentateuch and known as the "Torah." The remainder of the Old Testament was divided into the "Prophets" and the "Writings," so called.

In the laws of Moses and the Talmud was to be found a collection of rules of conduct—physical, social, political, religious, moral, and philosophical—a strict and literal compliance with which became the life of the Jew. They offered a field for his study and mental occupation and discussion with his brethren which never ended. His duties thus prescribed were to be performed in the home and in the synagogue and in the academy, and these centers supplied to him what the fatherland was to others more fortunately situated.

The Torah and the Talmud established a direct relation to God on the part of each individual and an accountability for every minute of his waking hours that absorbed his attention and his interest. With no home, with no country, no kindly sympathy from anyone but his own kind, he found his happiness within his own circle and in the refuge from sorrow which his life within the law gave him.

Their great historian says of the Jews:

> In the vicissitudes of their fate for a great many centuries they were saved "by their own inner life, pure home life, idealism of the synagogue, and belief in ultimate Messianic redemption" from utter demoralization and despair.

From Pumbeditha and Sura, in Babylonia, in the eleventh century, the seat of Jewish ecclesiastical authority seems to have passed to Spain, where, under the Saracens in Cordova and Toledo and Granada, the Jews were given full freedom and scope for their activities and for the practice of their religion, and for the further discussion of the Jewish faith and philosophy.

The two Talmuds are very voluminous, and in the centuries after their issue their legal contents were digested and condensed into more usable form for daily consultation and use. From time to time philosophers and leaders of Jewish thought appeared.

Philo of Alexandria, Maimonides of Spain, and Moses Mendelssohn were the three great lights, the first in the beginning of the Christian era, the second in the Middle Ages, and the third in the eighteenth century and late enough to furnish the type to Lessing for that wonderful character of *Nathan der Weise.*

False Messiahs appeared and misled many to their sorrow. Mysticism played its part and books promoting it were written, causing protest and controversy. Commentaries were published by some Jewish leaders of thought which were pronounced heretical by others. Spinoza, the great philosopher, was excommunicated by the Dutch rabbis.

But in spite of these differences, constantly during the seventeen centuries of gloom and woe, somewhere in the world was a religious center of Jewish authority to which Israel turned for hope and inspiration. The strictly orthodox Jews have always adhered closely to the rabbinical law of the Talmud, but under the influence of Mendelssohn and the leadership of other liberals among his successors a division occurred, and there arose a liberal and reformed school among them, which grew in number as the conditions for their assimilation with the local environment became more favorable and they were relieved from the forced exclusiveness and misery of the Ghetto.

The speech of the Jews has had an interesting history. Hebrew, Aramaic, Greek, Arabic, and all European languages were from time to time spoken by them. Finally, in their wanderings, there grew up two hybrid mediums—one the Yiddish, or Jargon, and the other the Ladino.

The former, which has an extensive literature, is based on the mediæval German, but is written in the Hebrew characters and is mixed with Hebrew and influenced by the vernacular. It is used by the Ashkenazim, or German Jews of Northern and Eastern Europe.

The latter, the Ladino, or Spaniol, is Spanish in its basis and mixed with Hebrew and Turkish. It is used by the Sephardim, or the Spanish Jews, and has been carried by them to Africa, Turkey, Bulgaria, Serbia, and Greece.

Recurring now to the history of the race after the second dispersion: To Rome, after the Christian era, Jews and Christians flocked in great numbers. In the chaos of skepticism, religions, and philosophies, there was a cult among some of the Romans that led them to embrace Judaism;

but generally the Jews were exclusive, unexpansive, and contemptuous of other religions. They were especially hostile to the Christians, whom they regarded as traitors to their race for failing them in the wars of Vespasian and Titus, and whom they did not hesitate to accuse of many shortcomings in order to stir up Roman hostility against them.

The Christians differed from the Jews in that they were most active missionaries, and they thus brought down on their heads persecutions which were directed nominally against both Jews and Christians, but the severities of which the Jews were able to escape.

The result of this situation in Rome and elsewhere placed the Jews at a great disadvantage when the Roman Empire became Christian under Constantine, and from that time on, in one form or another, we find constant Christian persecution of the Jews.

In the long, dark Jewish night, after Christianity became the creed of the Roman emperors, down to the nineteenth century, there were only two or three countries and comparatively short periods in which the Jews enjoyed tolerance, prosperity, and power and were able to develop the genius of their race.

In the eighth century Charlemagne, correctly estimating their value as subjects of his empire, granted them tolerance in religion and encouraged them in the development of a trade which greatly helped his empire and made many of them rich merchants. The fact that there were Jewish communities in every great commercial center, even of the most distant parts, gave them a marked facility in conducting international trade. Charlemagne's son and successor, Louis the Pious, continued his father's wise and kindly treatment of them.

A little earlier than Charlemagne the Moslem invasion of Spain in 711 established the Crescent in the peninsula. Arabian and African Jews, who, after the persecution of them by Mahomet and Omar, had ingratiated themselves with their successors and had been given opportunity for education and development, accompanied the Saracens into Spain and there met their brethren, who had been greatly abused by the Visigoths and who were only too glad to unite in aiding the following of the Prophet to establish a kingdom.

There they developed trade, poetry, philosophy, science, and literature and art. They became ministers of the government and its representatives abroad. The kindly Saracenic soil for their growth gave a full development to the race, and the Spanish, or Sephardic, Jews were fine specimens of physical and intellectual manhood. They became in a way the aristocracy of the house of Israel.

This favorable condition continued until the reconquest of Spain by the Christians began, and lasted in lessening degree to the expulsion of the Moors from Granada, in the fifteenth century.

Meantime every great upheaval seemed to increase Jewish persecution and Jewish misery.

The First Crusade, in 1096, which developed such wonderful religious spirit in the middle and upper classes, led the scum and the rabble to a persecution of the Jews. This recurred in the Second Crusade, in 1146.

A cruel massacre of the Jews occurred in 1189 in England, at the time of the coronation of Richard I, although the king favored them and they had acquired a hold in England to such an extent that there had been established a Jewish exchequer, where Jews had to register all their transactions and through which the financial troubles of the Plantagenets were greatly remedied by Jewish gold. They were, however, expelled in 1290 from England by Edward I, it is said at the instance of the Queen Mother Eleanor, whose religious intolerance could not brook their presence.

The Fourth Lateran Council, under Innocent III, among many anti-Jewish measures, required Jews to wear a dress or badge indicating their race. Soon after, in all the cities of Europe they were compelled to live in a particular quarter surrounded by walls and were locked in at night. Hemmed in and congested in these ghettos, the Jewry of Europe lived out their painful lives until the middle of the eighteenth century.

St. Louis of France expelled the Jews in 1254, treated them badly, and then invited them back. Philip IV expelled them, and nine years afterwards, in 1315, his successor Louis X recalled them. They were finally expelled by Charles VI in 1394.

In 1348 and 1349 there came the plague of the "black death" all over Europe. Probably because of the hygienic effect of the Mosaic and Talmudic law, to which the Jews conformed with rigidity, they escaped the ravages of the epidemic.

This was noted among the people, and at once the report spread that the plague had come from wells poisoned by the Jews, and another series of massacres of these poor people followed everywhere. During the plague, Pope Clement VI issued two bulls in an attempt to protect the Jews.

The Popes in the course of the centuries, however, issued many bulls against the Jews. The bulls were enforced with much greater severity in other countries than by the Popes themselves, who in actual administration often exhibited much leniency toward this unfortunate race. Canon law had forbidden the taking of interest or usury by Christians; but this did not apply to the Jews, and as the Jews had the money, they did the lending.

They thus became objects of interest to the kings of the various countries who had to borrow money, and they were made private servants of the monarchs, *servi camaræ*, a position of apparent privilege which, however, in the end only subjected the Jews to greater persecution.

An uncertain tolerance was the only relief from constant persecution, which was their usual condition after the crusades and the black plague. Every excuse for attacking them was seized. Huss in Bohemia proclaimed his adherence to the teachings of Wyclif in 1420. He was persecuted by the church—but so, too, were the Jews—for his agitation among Christians, with which they had naught to do.

In 1481 the Inquisition was set on foot in Spain, and in 1492, after Granada fell, the Jews were expelled. They were driven into northern Africa, into Turkey, and into Italy.

Whenever bitterness or prejudice or private motive prompted hostility to the Jews, a common form of accusation was that of murder, and offering a sacrifice of a Gentile child in their religious ceremonies was charged. A trial was had and, whether conviction followed or not, persecutions ran riot.

This method of attack has, as we know, continued down to the present generation in some countries. Lecky, in his *History of Morals in Europe*, points out that this form of charge was made against a great many different sects in pagan Rome—against the Christians as well as others. It has survived only against the Jews.

The effect of the crusades, the black plague, the Inquisition in Spain, the Huss persecutions in Bohemia, and the annual massacres in Austria in the time of Rudolph of Hapsburg, was to drive the Jews to seek refuge in a country where life was possible. The country toward which they turned their eyes was Poland.

Poland was consolidated under Casimir III, the Great, in the fourteenth century, and was made still greater by the marriage of his grandniece and heiress to Yaguello, the Grand Duke of Lithuania, who thereupon became the King of Poland and the founder of a dynasty which ruled from the latter part of the fourteenth to the latter part of the sixteenth century.

At the height of its expansion the Polish monarchy reached from the Baltic to the Black Sea and covered an area which down to this day harbors the great bulk of the Jewish population of Europe. If we leave out Prussian Poland and Austrian Galicia, the Russian present Jewish pale of settlement nearly coincides with the boundaries of this ancient Poland.

In 1334 Casimir the Great of Poland confirmed a charter of general privileges to the Jews which had originally been given by a predecessor in 1264. The charter insured the economic progress of the Jews and gave guaranties of their personal and religious security.

They were exempted from the jurisdiction of the ecclesiastical as well as the municipal law courts and a "Jewish judge," so called, was appointed to act in their cases, significant of the abuses to which they had been subjected.

Casimir's liberality attracted Jews from every quarter of Europe and greatly increased their number in Poland.

After the Yaguello dynasty the power passed from the kings to the Polish nobility, or Shlakta, and the protection to the Jews grew less and less. The burghers were hostile to them because of their competition, and the nobility, while using them as agents to conduct their estates, were arbitrary, cruel, and tyrannical.

Chaos ensued and the condition of the Jews grew worse. They were forbidden to hold land. The nobility manufactured the liquor, and they were willing and anxious to have the Jews sell it, who thus, for lack of other occupation, became the innkeepers, the purveyors, in the demoralizing liquor business.

The reduction and elimination of the Polish Kingdom during the seventeenth and eighteenth centuries transferred the bulk of the Jews of the world to the jurisdiction of Russia, Germany, and Austria. Poland lost many of its provinces to Russia before the three formal partitions in the eighteenth century.

Except in the part of her Empire which Russia acquired from Poland, Russia never had and has not now but a very few Jews. Her eager acquisition of her large share of Poland, however, placed nearly half of the Jews of the world within her jurisdiction. They had not sought it.

The adoption of the Inquisition by Spain in the fourteenth and fifteenth centuries led many of the Spanish Jews to become baptized into the Catholic Church and to go through the form of Christian worship, retaining secret allegiance to Judaism and observing its law as far as possible. They were called Maranos. This was a notable exception to the usual tenacity of the Jews in not only retaining their faith, but in avowing it under the most terrible ordeals.

The Maranos did not escape persecution by the Inquisition, however, and they fled, many of them, to Holland, where they engaged in trade and where, after a time, they resumed their relations to the synagogue.

Their skill in international trade and familiarity with colonial matters soon gave them wealth and standing among the Dutch. Charles II while in exile dealt with these Jews. At the same time, one of them visited Cromwell in 1655 and pressed upon him the wisdom of allowing the Jews to return to England, whence they had long before been expelled.

Cromwell made no formal agreement, but intimated that he would tolerate their return, and they went back.

Charles found them there when he was restored, and while they were not politically emancipated in England completely until 1850, they suffered no oppression and were able to develop their faculties for business and finance and were well treated and became a strong and loyal supporting element of the British Crown.

When the Constitution of the United States was adopted, Jews, of course, were treated on a full political equality. Some of them were of the greatest aid to this country in the Revolution. While there were religious qualifications for suffrage in several of the States, they rapidly disappeared, and in this country, at least since the adoption of the Constitution, in 1789, Jews have had complete emancipation and perfect legal equality of opportunity.

When the French Revolution came on, in 1789, Mirabeau and Abbé Grégoire led the movement for the emancipation of the Jews; and while they met resistance, they were successful.

Napoleon did not disturb this condition. On the contrary, he extended it and gave equality of civil rights to the Jews in many countries over which he exercised power, though he was the author of at least one restrictive ordinance affecting them. France may, therefore, be counted as the next nation after the United States to give the Jews complete legal equality.

Louis XVIII, who succeeded Napoleon, continued this freedom for them, though in actual administration, under the influence of ecclesiastics, there was some discrimination against the Jews. When Louis Philippe succeeded, in 1830, his Minister of Education proposed a bill which became a law, providing for the same payment of rabbis and for synagogues out of the public treasury as in the case of the Christian clergymen and churches.

In Holland the Jews were given political and civil equality in 1796. In the British colonies they enjoyed it from 1740, much earlier than they did in the mother country.

In Prussia the Jews had been given greater civil and political rights in 1812, and in Mecklenburg and in Baden. When Prussia united with England, Austria, and Russia to put down Napoleon, the young Jews of Germany played their part with vigor and effect and made a valuable addition to the Prussian and German forces.

After Napoleon was beaten, in 1814, the Holy Alliance, with Hardenberg and Metternich as leaders, met at Vienna, and the Jewish communities from the Hansa towns and Frankfort appealed for relief from their governments. So bitter, however, was the resistance of the free towns and of Frankfort, that only a friendly resolution was passed and inserted in the German constitution, but it had no moral binding effect. The Rothschilds were nearly driven from Frankfort because of the bitterness of the Frankfort Senate and their desire not to grant equal rights to the Jews, although the Jews had paid half a million dollars as a consideration for such a grant.

About this time a professor named Rühs, of the University of Berlin, began propaganda against the Jews and aroused a bitter feeling. The truth is, that Protestant Germany has never been liberal in this regard.

The popular movements all over Europe in 1848, however, on the Continent brought not only equality of opportunity and religious freedom to the Jews, but brought into the various parliaments a number of the leading Jews, and from that time on they have had little real trouble with the law in Austria, Germany, France, Holland, and England.

In Spain the Inquisition was revoked in 1834, and the Jews have since been invited back. By the Congress of Berlin, in 1878, to which I shall refer more in detail later, the Jews secured political and civil equality in Bulgaria and Servia. Turkey had already granted it to them.

On the whole, then, at the present time, the sons of Israel have little to complain of in statutory law except in Roumania and Russia. This is not to say that they do not encounter social prejudice in all countries, which in some countries has grown into bitter anti-Semitism and popular agitation against them.

Prejudice cannot be banished by law. It can only fade out as conditions producing it change. It of course affects the happiness and comfort of them against whom it is directed; but it does not limit their useful activities nor the achievement of great success.

What are the reasons for this almost constant persecution of the Jews from the fourth century to the nineteenth? I regret to say that it must be mainly attributed to the religious intolerance of the Christians. Other causes may be pointed out in the characteristics of the race which mistreatment and self-protection either developed or increased and hardened. But, in the last analysis, the initial cause was in religious prejudice.

We find this prejudice in the hostility of Constantine after his conversion; we find it in the bulls of the Popes, beginning in the fourth century and continuing through the Middle Ages to the Council of Trent in 1563; we find it in the course of St. Louis of France; we find it in the religious frenzy of Queen Eleanor of England, of Elizabeth of Russia, and Maria Theresa of Austria; we find it in the Inquisition of Spain; we find it in the words of Martin Luther against them. Luther said:

> Why should the Jews complain of their captivity among us? We Christians suffered persecution and criticism at their hands for nearly three hundred years, so that we might complain that they took us captives and killed us, and to this very day we know not what devil brought them into our land. We did not bring them from Jerusalem. Besides that, no one keeps them. The country and the roads are open to them. Let them return to their own land. We will gladly give them presents if we can be rid of them, for they are a heavy burden upon us, a plague, a pestilence, a sore trial.

We find the same spirit of religious persecution in the reintroduction by Pius VII of the Inquisition against the Jews and his ordinance that the Jews should forfeit the freedom enjoyed under the first Napoleon's rule in Rome and forsake their beautiful houses and return to the Ghetto; and we find it to-day in the attitude of the Russian Greek Church and the severe methods adopted to secure the baptism of the Jews.

The persecutions which this religious prejudice has engendered have stimulated the Jews in self-protection to maintain their exclusiveness, to continue their religious life and rigid adherence to their ceremonials, and to avoid assimilation with such an uncomfortable and hostile environment.

It increased their intense activity, their cunning in business, in order that they might live at all against such opposition, and it produced in them the traits that are now made the basis for denouncing them.

In 1877, Russia declared war against Turkey because of the atrocities committed by the Turks against the Christian peoples in the Balkans, and ultimately won the war. She made the treaty of San Stephano with Turkey, and then the great Powers insisted that there must be a congress to revise that treaty.

The congress was called at Berlin in 1878 and under it were established the separate governments of Servia, Bulgaria, and Roumania, who thus really owed their freedom to Russia.

France, England, and Germany insisted that the new governments to be constituted should embody in their constitutions a declaration in favor of religious and civil equality for all domiciled within their jurisdiction.

This was not favored by Russia and was very bitterly opposed by Roumanians. Nevertheless, on the approval of Prince Bismarck, who presided in the congress, the treaty required that, as a condition of recognition by European governments, the constitution of Roumania should contain declarations and guaranties of civil and religious liberty and equality for the Jews, and Russia signed the treaty.

The Roumanian authorities deliberately framed a plan by which to evade the requirement of the treaty. They provided in their constitution, Article VII:

> The difference of religious creeds and conditions does not constitute in Roumania an obstacle to the acquirement of civil and political rights and their exercise.

They then provided for naturalization, and enacted that naturalization could only be granted by a law and individually. It was held by their government that Jews were aliens, although they had been living in Roumania for hundreds of years and had been subject to draft into the Roumanian army and had served as soldiers. In this way they avoided the effect of the constitution upon Jews, and their statesmen openly prided themselves on their acuteness.

By adopting the constitution to which I have referred, the Roumanians procured the recognition of European countries. Since then they have heckled and harried the Jews by restrictions upon their livelihoods, by refusing admission to the elementary public schools of more than 5½ per cent of their number, and in secondary schools of more than 7½ per cent, and in many other ways.

Although this is in direct violation of the Treaty of Berlin, the signatories to the treaty have not thought it best to intervene.

Bulgaria and Servia complied with their obligations.

The law which required the Jews in Russia to live in the cities of the Pale of Settlement produced a great congestion. They were forbidden to engage in so many trades and callings that their means of livelihood were most limited. They had no political rights and were thus kept excluded from government employ.

They were denied secondary and university education except to the extent of a very small per cent of their number, and they were so hemmed about with police restrictions as to subject them to oppressive blackmail. The result has been that the great majority of them are ignorant, and even before the war at least a third of them were in direst misery and destitution.

There are in the world over fifteen million Jews. Of these, six millions are to be found in the ten provinces of Russian Poland and the fifteen provinces called "the Pale of Settlement." There are upward of 2,250,000 Jews in Austria and Hungary. There are 615,000 in Germany. There are 270,000 Jews in Great Britain, 100,000 in France, 45,000 in Italy, half a million in Asia, 250,000 in Roumania, and there are 3,300,000 in the United States, of whom a million or more live in the city of New York.

The Jews in the United States, down to 1880, did not exceed a quarter of a million, but since the oppression, pogroms, and massacres in Roumania and in Russia, immigration has increased to the figures given.

As I have said, in all parts of Europe and America, except Russia and Roumania, legal discrimination against the Jews has largely ceased, and civil equality is accorded them. The present great problem, therefore, is to secure civil equality for them in Russia and Roumania. How is the present condition in those countries explained?

Prince Gortchakoff in the Berlin Congress described the Russian and Roumanian Jews as a great scourge upon any people. Bismarck's answer was that the policy of restriction had given them the character which is now made the basis for complaints against them.

Mirabeau in the French Assembly said, in answer to a similar charge:

> If you wish the Jews to become better men and useful citizens, then banish every humiliating restriction, open to them every avenue of gaining a livelihood. Instead of forbidding them agriculture, handicrafts, and the mechanical arts, encourage them to devote themselves to these occupations.

It is probably true that the Russian Jews do devote themselves to trading in money, and that the Russian moujik is subject to abuse in this respect, of which the Jews take advantage, but it must be borne in mind that the restrictions upon the Jews as to livelihood have been and are such as to drive them into money-lending. Indeed, this cause dates from the middle ages, when, as already said, canon law forbade among Christians the lending of money on interest and left that business open for the Jews, who perforce became the money-lenders of Europe.

The few avenues of employment for Jews forced them into the conduct of inns and the selling of liquor. This, as I have pointed out, was a heritage from the Polish nobility.

Even if the charge made against the Russian Jews of fraud and trickery has foundation, it is not to be wondered at, when man's hand is against them, when they are desperate in their efforts to live, when they have a faculty in trade born of the severest necessity. The objection to them that they work together in the interest of each other may well be true. When general society is against them all, they naturally stand together for self-protection and for self-support.

One can hardly expect that they should feel entirely grateful to a government which makes life so hard for them, or that the desire to serve in the army should be strong in them. And yet the reports from the World War indicate that they have made good soldiers, and the history of the Jews in all countries in which they have settled has been that they have rallied to the support of the government under which they lived.

Their patriarch, Samuel of Nehardea, sixteen centuries ago laid down the rule: "The law of the government is the law"; and in the eighteen or nineteen centuries in which the Jews have been wandering over the face of the earth, rebellion and treachery to the government under which they lived have not been frequent among them.

A number of them in Russia under the old régime doubtless had revolutionary and subversive tendencies, apparently confined to Jews of university education, who found difficulty in earning a livelihood under the restrictions and who naturally cherished resentment.

With their active minds, with their genius for trade, cultivated by centuries of necessity, they prefer trade to manual pursuits, but many of them are skilled artisans in many countries.

They do not follow agricultural pursuits because they have long been forbidden to own land, and by this long deprivation their tastes have been formed for city life. They have been cooped up in ghettos of the city and, perforce, have formed the habits of an urban population.

Denied the opportunity for education, they are ignorant; but no people in the world manifest so much anxiety to secure education and improve the opportunities, when offered, with such earnestness and success.

It cannot be good for a country like Russian Poland and the Pale to continue 6,000,000 of its inhabitants in such a persistent condition of poverty and demoralization. It must interfere with the proper development, prosperity, and health of the rest of the population. So large a congestion of this kind must make a sore spot in the economic, political, and social life of this part of Russia.

In spite of their deplorable condition and the emigration it stimulates, the Russian Jews are very prolific and their number is not diminishing. Their presence in Russia has been a continuing fact, and the policy pursued in respect to them up to the Revolution did not remove it or alter it, and it was not a success.

In aid of the Christian peoples of the Balkans and Armenia, the Russian Government did a great work, for which those peoples should be very grateful. The conduct of Russia toward them was in marked contrast to its attitude toward the Jews within its own jurisdiction. Is it too much to hope that the drastic experience of this war may lead Russia to a different view?

If the war does help the Jew, it will indeed be a blessing in dreadful disguise. One-half the Jews of the world have had to bear its miseries, its cruelties, its sufferings. They lived in the theater of war between Russia and Germany and Austria. In this region, almost without ceasing, the campaign continued. The Russians laid waste the country in order to embarrass their pursuing enemies, and between the two armies the population, of which the Jews were a large part, suffered untold horrors.

As soon as the war came on, as soon as mobilizations were initiated, Germany and Austria, on the one hand, and Russia, on the other, vied with each other in a cultivation of the good-will of the Poles and the Jews.

Russia promised that an autonomous Poland would be created from all three of the incomplete tribal districts of the partitioned kingdom. Some of the leaders of the Austrian Government announced an intention of giving autonomy to Galicia.

When the war came to an end, tremendous governmental changes occurred in the countries where the Jews are so greatly congested.

The dreadful destruction of life, the necessity for rehabilitation of these countries where the war raged with such violence and destruction, must necessarily give greater economic value to every man who survives. The loyalty which the Jews have shown to their respective governments in these countries under a most trying ordeal ought to impress their governments with the claim that they make to equal treatment.

While it is true that in the past much of the cruelty to the Jews has been immediately prompted by popular prejudice, nevertheless it is also true that, with the increase of popular control in all countries, their condition has ultimately been much improved. A war like this, which must be carried on by the people, increases their ultimate power.

Harsh and repressive measures have not helped the solution of the Jewish question. The result reminds one constantly of Æsop's fable of the contest between the wind and the sun in removing a man's coat from his back. The harder the wind blew, the closer the man held the coat to his body. It was only when the sun with its warm rays increased the temperature and created discomfort that the man removed his coat.

The harshest persecution and injustice merely strengthen the peculiarity of the Jew in his adherence to his ancient customs, in his exclusiveness, in his use of cunning to avoid outrage, and in his adherence to his religion and its ceremonials. Give him the sunlight of freedom and the balmy encouragement of equality of opportunity and he assimilates himself to his environment with all the quickness of perception, all the energy, all the enterprise, all the persistence with which he is so remarkably endowed.

If education and opportunity and freedom and equality are extended to them in the next generation, the traits to which objection is made will become less and less conspicuous, and Russia's great domain, which needs people of energy, people of keenness, people of enterprise, people experienced in trade, people of financial genius, will find a benefit in the presence of the Jews.

From the East Side of New York and through centers of population in this country where Jews are gathered, by the million and hundreds of thousands, come the youth of the race who soon manifest a spirit of Americanism and get on.

They succeed in trade, they succeed in the professions, they succeed in business, and they move their homes to less crowded districts and acquire all the taste and views and fashions of their fellow countrymen.

They cultivate little or no solidarity in politics, and they manifest a disposition to disintegrate as a community. They retain a loyalty to the race, but not a strict adherence to the ceremonial, and they intermarry with Gentiles.

A number of modern books written by Jews deplore this fact. They fear that Israel will be swallowed up in the nations. They are an excellent, law-abiding part of our population. Of course, criminals come from among them, poor and miserable as some of them are, but the criminal statistics do not show their percentage of criminals to be as great as that of the entire population.

When we consider the congestion in New York on the East Side of one million Jews, and that this has come within the last thirty years, it seems remarkable that it has not given more trouble to our civilization and our government than it has. These are the lessons which an investigation by Russian statesmen into our experience would furnish.

The Jews of the world, in countries where they have had equal opportunities, have won their way not only to great financial power, but to places of commanding influence in journalism, in the professions, and in business. They have retained always an acute interest in the welfare of their coreligionists throughout the world. Their religious training has inculcated in them the duty of charity to all—Jew and Gentile—and they have given unsparingly to aid their brethren in distress.

Individuals like Sir Moses Montefiore have given much time, money, and effort all over the world to the cause of their race. Baron Hirsch and Baron Rothschild have planned and carried through rural colonies of the Jews in Palestine, in Argentina, and in New Jersey.

The Zionist movement to secure a migration of Jews back to Jerusalem does not meet with the undivided support of the Jewish people, but it certainly has substantial strength as one project for relief of the congestion in east Europe.

During the World War the Jews of this country and elsewhere raised a fund of nearly $25,000,000 with which to aid their poor peoples suffering in the train of war.

In the countries where they have money, power, and influence, great Jewish committees have long been organized to help in securing civil rights, religious freedom, and equal opportunity for the oppressed of their race.

The influence of the leaders of the Jews in Europe and America upon the Congress of Nations at Paris in behalf of the better treatment of the Jews has been weighty, and we can be sure that it was courageously and wisely exercised.

The direct interest we have in the Jewish question in these Eastern countries was stated by Secretary Hay to the signatories of the Berlin Treaty in protest against Roumania's persecutions and breach of her treaty obligation, to wit, that we are the world's refuge for such people, driven out by measures of oppression and restriction, and their coming in great numbers in their present condition imposes an unfair burden upon us.

We may rejoice that more than half the members of this great race have won their long progressive struggle for merely an equal chance with other men; but we cannot tear out that distressing page in the history of Christian civilization containing the record of seventeen centuries of persecution.

The result of the war and the breaking up of Russia and the giving reign to the principle of self-determination of racial units have created seven independent European states in central and eastern Europe. Of these, the Baltic Provinces, Poland and the Ukraine, as well as the Czecho-Slovak State and the Jugo-Slav State, have many Jewish citizens. In addition to this, the Greater Roumania, which is to receive Transylvania from Hungary, is another state which will have many Jewish citizens.

The German treaty specifically provides that the five great Powers shall make future treaties with Poland and with the Czecho-Slovak State securing the religious liberties of the people who constitute a minority in those states; and it is understood that similar provisions are to be included in the Austrian treaty in respect to the Jugo-Slav State and Roumania.

It is to be hoped that the securities exacted in these treaties will be of a character more effective than were the requirements of the Congress of Berlin in respect to Roumania. Indeed, we can be sure that they will. The prejudice against the Jews still remains in those countries, and cannot of course be eliminated by mere legislation. But Jews can be given equal rights and be protected in those rights, and secure equality of opportunity through such protection.

The League of Nations is to be a continuous body and will have power enough to see to it that treaties of this character are performed by nations which the war has in fact created and which will continue to be dependent for some years upon the League for their own integrity and independence.

THE ONE HUNDRED AND FIFTIETH ANNIVERSARY OF THE CONSTITUTIONAL ESTABLISHMENT OF RELIGIOUS LIBERTY [1]

BY IRVING LEHMAN

Associate Judge of the Court of Appeals of New York

WHEN the Congressional representatives of the thirteen colonies issued the Declaration of Independence they began their explanation of the causes which impelled the people of the colonies to separate from the mother country with the words now so familiar to us:

> We hold these truths to be self-evident—that all men are created equal; that they are endowed by their Creator with certain inalienable

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[1] Address delivered before the "Judæans" on April 24, 1927, at a meeting held in commemoration of the 150th Anniversary of the Constitutional Establishment of Religious Liberty.

> rights; that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

Not always had such doctrines been regarded as "self-evident truths." Their general acceptance was, indeed, the triumph of the political thought and philosophy of the eighteenth century. Like other political dogmas, they had influenced the minds of individual statesmen, but governments had grown up and governmental powers had been asserted and exercised without regard to moral political theories. Rights were secured by governments when those who claimed the rights had power or influence sufficient to direct governmental action.

When the colonies asserted their freedom they were called upon to form new governments. Political dogma which was then accepted as self-evident truth naturally to a great extent guided the deliberations of the bodies chosen to create the machinery of the new governments. On May 6, 1776, almost two months before the Declaration of Independence was adopted, a constitutional convention assembled in Williamsburg, Virginia, to frame a form of government for the new state. Representatives of the people met to confer delegated power upon the trustees of the people, to displace a charter granted, at least theoretically, by royal grace. On June 12, 1776, the Constitutional Convention adopted a bill of rights under the title of "A Declaration of Rights made by the Representatives of the good People of Virginia assembled in full and free convention, which rights do pertain to them and their posterity as the basis and foundation of government." It constitutes a statement in dogmatic form of political theories so much discussed during the eighteenth century concerning the rights of man and man's relation to the state, but through that statement these theories were translated into the fundamental law, the basis of the government of the new state.

Like the Declaration of Independence it begins with the assertion

> that all men are by nature equally free and independent, and have certain inherent rights, of which, as they enter into a state of society, they cannot by any compact deprive or divest their posterity, namely, the enjoyment of life and liberty, with the means of acquiring property and pursuing happiness and safety.

It then continues with the words:

> That all power is vested in and consequently derived from the people; that the magistrates are their trustees and servants, and at all times amenable to them. That government is or ought to be instituted for the common benefit, protection and security of the people, nation or community.

After a recital of the general principles which should determine the form of government most suitable for this purpose, the Bill of Rights enumerates those rights which are "inherent" or "inalienable." Included in those rights is the right to religious freedom. In accordance with the Bill of Rights the government of the new state was formed by the adoption of the "Constitution or Form of Government" on the 5th day of July, 1776.

The Constitution and Bill of Rights of the Virginia Convention is probably the first written instrument creating a government which in terms emanates from the people, and which, at the same time as it creates the government, protects the fundamental rights of the people from encroachment by the state. As might be expected, the enumeration of such fundamental rights embraces those rights which constitute the essence of political liberty according to Anglo-Saxon traditions, rights which by the same traditions were protected by the courts. For the first time, however, religious liberty is included in an enumeration of political rights; for the first time in all history has the state recognized and provided by organic law that even the state might not interfere with religious freedom.

Students of our history have frequently noted that although the colonies were in large part settled by men who sought here the opportunity to worship according to their own conscience, for the most part, wherever the adherents of any sect constituted a considerable majority of the population, they were intolerant of difference of religious opinion. They had made sacrifices to maintain the truth as they saw it. They could not recognize the right of others to maintain the contrary. They regarded as ordained the perdition in the world to come of those who differed with them here; they felt justified in persecuting or at least in placing disabilities upon those who in their opinion were perverse and stubborn in the wrong.

Here and there, it is true, a high measure of religious freedom was achieved. Roger Williams, in advance of his time, perceived that the state should not interfere in matter of conscience. The settlers of Providence were required to sign a covenant:

> We whose names are hereunder written, being desirous of to inhabit in the town of Providence, do promise to submit ourselves in active and passive obedience to all such orders or agreements as shall be made for public good of the body in an orderly way by the major consent of the present inhabitants, masters of families incorporated together into a township, and such others as they shall admit into the same *only in civil things.*

Williams succeeded in obtaining a charter for Rhode Island and Providence Plantations with the provision that "no person within the said colony at any time hereafter shall be in anywise molested, punished or disquieted or called in question for any differences in opinion in matters of religion who do not actually disturb the civil peace of our said colony," and in 1647 the first General Assembly adopted a code of laws which concluded with the words: "All men may walk as their consciences persuade them, every one in the name of God." The charters of Maryland and Pennsylvania, too, contained provisions safeguarding liberty of conscience, though not in all respects as comprehensive.

Even in these colonies, however, old religious prejudices and religious convictions that were too strong to admit of difference of opinion, to some extent thwarted the intentions of the founders, and liberal provisions of laws and charters were at times applied in grudging and narrow spirit. In general it may be said that where the adherents of a particular religion acquired sufficient political power they made that religion an established church and placed disabilities upon, and even persecuted, those who refused to accept the tenets of that church.

Even so, the eighteenth century marked a great growth of toleration in the American colonies. Not only change in political philosophy, but other circumstances contributed to this result. Congregationalists might establish their church in some of the colonies of New England, but they knew that in other colonies and in the mother country they were only tolerated. Where there was an established church there were yet substantial minorities of inhabitants who refused to conform. The spirit of pioneers, the conditions of a new country, tended to render oppression of minorities inconvenient, if not impossible.

Moreover, a strong community of interest in any group naturally tends to diminish the emphasis placed upon differences of opinion in regard to other matters, and intercourse tends to reduce misunderstanding and to destroy intolerance. These influences were particularly strong in the years immediately preceding the Revolution. The ties of common interest and common political views which bound together the colonies in their dispute with England kept out the dividing force of difference in religious views. The Congregationalist of New England, the dissenter and the Church of England man from other parts of the country could not maintain an attitude of bigotry and intolerance when all were working together for a common end.

> It was impossible that neighboring communities, characterized by such differences, but otherwise homogeneous in race and social condition, should fail to react upon one another and to liberalize one another. Still more was this true when they attempted to enter into a political union. (Fiske, *The Beginnings of New England,* p. 186.)

Though test acts and statutes imposing civil disabilities because of difference in religious views remained on the books, in practice at the time of the Revolution the Jews at least were under no significant disabilities except in regard to the right to hold public office. Indeed, Jews had been elected to the colonial assemblies in Pennsylvania (David Franks), Georgia (Joseph Ottolenghi) and South Carolina (Francis Salvador), and had been permitted to take their seats without question.

The Virginia Convention met in that atmosphere of enthusiasm for human liberty and against all forms of tyranny which justified the American Revolution even in the minds of many who had only with reluctance given up their loyalty to the British crown. All were agreed that in the new state individual liberty must be protected against tyranny by the government. A declaration of rights which "pertain to the people and their posterity as the basis and foundation of government" to be effective must contain more than vague phrases about liberty. To be effective it must contain a definite statement of those rights which the government must protect and might not destroy. The right to set up false gods had never been recognized as inherent in liberty, and men were not then, and are not even to-day, disposed to doubt that those who do not accept their peculiar religious beliefs are in fact setting up false gods. Toleration was sometimes taught as a Christian duty, but in Virginia itself the Church of England was the established church, and not very long before, dissenters had been persecuted. No Anglo-Saxon tradition made religious liberty an "inherent" right of a free people, and the original draft of the Bill of Rights, said to have been prepared by George Mason, did not contain any provision safeguarding it.

Perhaps the battle which had waged in Virginia in the past over the persecution of dissenters had made men think about the iniquity of attempts to force men's conscience. In the convention were many men who were imbued with a sincere love of liberty in all its phases. It was decided that a provision should be included in the Bill of Rights to safeguard religious freedom. George Mason accordingly had drafted a resolution that "all men should enjoy the fullest toleration in the exercise of religion according to the dictates of conscience." James Madison was a member of that convention. He recognized that freedom of thought and conscience must not be confused with toleration. John Fiske in his essay on James Madison (*Essays Historical*) says:

> Madison pointed out that this provision did not go to the root of the matter. The free exercise of religion according to the dictates of conscience is something which every man may demand as a right, not something for which he must ask as a privilege. To grant to the state the power of tolerating is implicitly the power of prohibiting, whereas Madison would deny to it any jurisdiction whatever in the matter of religion.

The substitute resolution offered by Madison protected that right in the fullest manner:

> That religion, or the duty we owe our Creator, and the manner of discharging it, being under the direction of reason and conviction only, not of violence or compulsion, all men are equally entitled to the full and free exercise of it, according to the dictates of conscience, and therefore that no man or class of men ought on account of religion to be invested with peculiar emoluments or privileges, nor subjected to any penalties or disabilities, unless under color of religion

> the preservation of equal liberty and the existence of the state be manifestly endangered.

The convention agreed that for the word "toleration" the phrase "right of the free exercise of religion" should be substituted, but its members were not willing to go so far as to adopt prohibition of peculiar emoluments or privileges to the adherents of a particular church. In the form finally adopted this clause reads:

> That religion, or the duty we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion according to the dictates of conscience, and that it is the mutual duty of all to practice Christian forbearance, love and charity towards each other.

It would, I think, be impossible to exaggerate the significance of this achievement of the Virginia Convention. In formulating the basis of the new state, the Bill of Rights had confined the powers of the state so that the right of citizens to think and to exercise religion according to the dictates of their conscience must remain inviolate. The convention had recognized that true freedom was not achieved so long as thought and conscience might be fettered. Other constitutions have included provisions which expressed the principle in better form. To Virginia belongs the credit of the adoption of the principle. It is interesting, too, to note that though the constitutional provision did not prohibit assessments for the support of ministers of a particular church, all movements for such purpose were strenuously and successfully combatted by Jefferson and Madison.

Victory in Virginia acquired particular importance because other colonies or states were about to adopt constitutions for their governance, and could hardly fail to be influenced by the action of the Virginia Convention. The issue whether political freedom by its nature includes religious freedom could not be evaded. In each state the question must be met and decided one way or the other.

The Pennsylvania Constitution was adopted September 28, 1776. It contained the provision:

> That all men have a natural and inalienable right to worship God according to the dictates of their own consciences and understanding, and that no man ought or of right can be compelled to attend any religious worship or erect or support any place of worship or maintain any ministry contrary to and against his own free will and consent; nor can any man who acknowledges the being of a God be justly deprived of any civil right as a citizen on account of his religious sentiments or peculiar mode of religious worship, and that no authority can or ought to be vested in or assumed by any power that shall

> in any case interfere with or in any manner control the right of conscience in the free exercise of religious worship.

In some respects this provision goes further and is more definite than the provision in the Virginia Convention. It does not, however, admit the right of a citizen to deny conscientiously "the existence of a God," and it is unfortunately to some degree vitiated by inclusion in the constitution of a provision for a test for public office,

> that each member of the House of Representatives before taking his seat shall make and subscribe the following declaration: "I do believe in one God, the creator and governor of the universe, the rewarder of the good and punisher of the wicked, and I do acknowledge the scriptures of the Old and New Testament to be given by divine inspiration." And no further or other religious test shall ever hereafter be required of any civil officer or magistrate in this state.

Franklin presided at this convention, and as might be supposed he disapproved of the provision of a test for office, but accepted it upon the practical consideration that it might prevent others in the future from imposing a broader test.

The limits of this paper preclude recital of the proceedings of the constitutional convention in each state. The Constitutional Convention held in New York in 1777, however, should not be entirely omitted. The original draft of the provision for religious freedom, prepared in a committee of which John Jay, William Duer, Gouverneur Morris, Robert R. Livingston and Abraham Yates were members, contained the phrase that "free toleration be forever allowed." Before adoption by the convention it was changed, as in Virginia, to "free exercise and enjoyment of religious profession and worship." Originally this was offered "to all denominations of Christians, without preference or distinction, and to all Jews, Turks and Infidels," subject to limitation where the Legislature might determine particular doctrine "incompatible with and repugnant to the peace, safety and welfare of civil society in general and of this state in particular." This provision was amended in the committee itself in most liberal spirit, but the debates in the convention evinced a spirit of doubt as to the doctrines of the Roman Catholic Church on the part of some sections of the state and some members which is even now not entirely dead. John Jay himself proposed an amendment that to the general provision for religious freedom an exception should be inserted that

> professors of the religion of the Church of Rome should not be permitted to hold lands in or be admitted to a participation of the civil rights enjoyed by the members of this state until such time as the said professors shall appear in the Supreme Court of this state and there most solemnly swear that they verily believe in their consciences that no pope, priest or foreign authority on earth hath power to

> absolve the subjects of this state from their allegiance to the same. And further that they renounce and believe to be false and wicked the dangerous and damnable doctrine that the pope or any other earthly authority have power to absolve men from sins described in and prohibited by the Holy Gospel of Jesus Christ, and particularly that no pope, priest or foreign authority on earth has power to absolve them from the obligation of this oath.

Perhaps it would be wrong to give too much significance to Jay's attitude. His Huguenot ancestry, naturally tended to prejudice him against the Catholics. His English traditions led him to justify the then prevailing English practice of Catholic persecution. Moreover, as years went on he apparently modified his views, for it was on his motion that the New York Constitutional Convention ratified eleven years thereafter the United States Constitution and that its resolution recited its full confidence that proposed amendments would be adopted, including a provision for complete religious liberty.

It seems to me of far more significance that the convention under the leadership of Gouverneur Morris and Chancellor Livingstone defeated the amendment by a vote of nineteen to ten and finally adopted a resolution in ringing words:

> And whereas we are required by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against that spiritual oppression and intolerance wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind, this convention doth further in the name and by the authority of the good people of this state ordain, determine and declare that the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever hereafter be allowed within this state to all mankind. Provided that the liberty of conscience hereby granted shall not be so construed as to excuse acts of licentiousness.

President Roosevelt has said of this achievement:

> The convention did one most praiseworthy thing in deciding in favor of complete religious toleration. This seems natural enough now, but at that time there was hardly a European state that practiced it. Great Britain harassed her Catholic subjects in a hundred different ways, while in France Protestants were treated far worse and in fact could scarcely be regarded as having any legal standing whatever. On no other point do the statesmen of the Revolution show to more marked advantage when compared with their European compeers than in that of complete religious toleration.

Well may we say that because America led the way, religious freedom seems natural to us now.

The labor of the men who in the constitutional conventions of the separate states had succeeded in obtaining recognition of the principle that religious liberty was an inherent right of free citizens with which the state might not interfere received its crown when the Constitution of the United States was adopted with its prohibition against all religious tests and its brief but all-inclusive provision in the First Amendment that "Congress shall make no laws respecting an establishment of religion or prohibiting the free exercise thereof."

I have no intention of attempting to go beyond the subject of this paper in order to trace even briefly the ebb and flow of tides of public opinion in the United States in regard to religious prejudices. The great leaders of thought and action during the Revolution, Washington and Franklin, Jefferson and Madison, were all men of splendid liberality of thought and spirit, who could perceive that thought and conscience cannot be constrained, and that a civil government may not enter into realms where constraint is both undesirable and impossible. They succeeded in making men of lesser minds see that freedom of thought and conscience is a matter of right and not of favor. They embodied that principle in the fundamental law of the country, and that is perhaps the greatest contribution which America has made to political thought and ideals and practice. They gave practical effect to Paine's words, though some of them abhorred Paine's religious views:

> Toleration is not the opposite of intoleration, but the counterfeit of it. Both are despotisms. The one assumes the right of withholding liberty of conscience, and the other of granting it. Who then art thou, vain dust and ashes, by whatever name thou art called, whether a king or bishop, a church or a state, a parliament or anything else, that obtrudes thine insignificance between the soul of man and his Maker? Mind thine own concern.

It is a trite saying that government is not merely a matter of law, but of men. As the very foundation of our government the organic law decrees freedom of thought and conscience, yet from time to time men try to destroy or abridge the freedom which the law decrees. It has been said that no man is worthy of freedom who cannot defend it. We celebrate this year the one hundred and fiftieth anniversary of the recognition of religious freedom as a legal right. We rejoice and are proud because we are citizens of the country which has recognized that right and guaranteed it in its constitution. We prove ourselves worthy of it when we are ready to defend it from direct or indirect attack, when we fight all forms of prejudice, whether directed against us or others, which threaten it.

THE FATHERS OF THE REPUBLIC AND CONSTITUTIONAL ESTABLISHMENT OF RELIGIOUS LIBERTY [1]

A HUNDRED AND FIFTIETH ANNIVERSARY

BY

MAX J. KOHLER, A.M., LL.B., D.H.L.

AN important anniversary should have been commemorated very generally recently, both in the United States and in Europe, namely the 150th anniversary of the first constitutional establishment of religious liberty. We may select anyone of several important events to commemorate, all landmarks in the history of civilization. The earliest in point of date was the adoption by Virginia of her first constitution, June 12, 1776, which contained the first bill of rights ever enacted, safeguarding the individual against legislative as well as executive and judicial attack upon fundamental personal rights, including right of conscience. George Mason was the draftsman of this important religious "bill of rights," and he anticipated the arrival of a somewhat similar, but independent, provision, drafted by Thomas Jefferson in Philadelphia almost simultaneously. Thanks to James Madison, Mason's clause was materially enlarged, but Madison was unable to induce the convention to make it adequately comprehensive, and hence, in 1779, Jefferson drafted his famous "Statute for Establishing Religious Freedom," which the friends of the measure were, however, unable to enact until 1785, when Madison's educational appeal to the voters of the state finally resulted in its adoption. Meantime, the first New York constitution was adopted April 20, 1777, containing an admirable and comprehensive guarantee of religious liberty, substantially the one still in force to-day, but it was enacted only after a vehement struggle, in which John Jay unsuccessfully sought to curtail the rights of New York Catholics, but was defeated by a majority led by Gouverneur Morris, Robert R. Livingston and Wm. Duer. At the instance chiefly of Jefferson and Madison, Congress formulated the first amendment to the Federal constitution in 1789 (supplementing the prohibition of a religious test for office, contained in Article VI of the constitution itself), on the basis of these earlier enactments, and it was promulgated in 1791.

I use the term "religious liberty" in its American connotation to include not merely constitutional safeguards protecting liberty of conscience against all impairment, but also the constitutional restraints against all forms of establishment of religion, religious tests for office, and all attempted discriminations on the score of individual religious belief, with respect to anything that the state may grant or regulate. A moment's consideration of this definition indicates its American origin and distinctiveness. Even the first part of the definition was unknown to Europe until our day, for effective constitutional restraint on legislative action is a new innovation even for the most advanced countries of Europe. As for constitutional prohibitions upon religious discrimination underlying state action, even to-day Europe does not commonly include the concept by the phrases "religious liberty" or "separation of church and state," though the principle has been making rapid progress there too.

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[1] Paper read before the American Jewish Historical Society at Philadelphia, October 25, 1926; since enlarged.

Two of the most interesting and important contributions to the history of the general movement were made in 1895 by one who bore a distinguished German Jewish name, and it seems strange that this Heidelberg professor, Georg Jellinek, should have particularly concerned himself with the world's indebtedness to America in the field of religious liberty. Unfortunately, his work is little known, and has attracted more attention on the Continent than in America, though Prof. Max Farrand translated it into English in 1901 with the title *The Declaration of the Rights of Man and of Citizens—A Contribution to Modern Constitutional History*, and Shailer Mathews of the University of Chicago has latterly repeatedly emphasized its great significance. Professor Jellinek pointed out that the development of the American principle of constitutional religious liberty gave birth to our entire system of "constitutional bills of rights" in all their varied phases, and that the idea, in practical government, of affirmatively devising checks upon government, legislative, executive, and judicial, instead of merely appealing to the "law of the land," first developed when dissenters seeking religious liberty found their rights safeguarded by appeals to "the inherent right of conscience," even as against the law of the land and its framers, and its established church. Theretofore liberty had, on the contrary, developed by appeals to legislation to curb executive and judge. Roger Williams, "the Pioneer of Religious Liberty" (as Oscar S. Straus well styled him in his able biography), first founded in practical Western government a settlement based on the avowed principle that one's religious belief is a matter with which the state has no right to interfere, and that the individual right of conscience is sacred against governmental interference. The names of the Calverts and Wm. Penn suggest themselves in this same connection. We had great individual thinkers long before Roger Williams who advocated absolute liberty of conscience, but their treatises were, in practice, largely futile philosophical speculation, never carried in Europe or America into practical governmental affairs. Luzzatti, who has just passed away, in an interesting and able work, greatly enlarged only recently in the Italian form, under the attractive title "God in Freedom," found such thinkers among early Roman Catholic church fathers, as well as in distant early Indian, Persian, Japanese and Mohammedan history. He, Ruffini, and Van Loon refer to the valuable exposition of the theory of religious liberty nearly three centuries ago, by our great Jewish philosopher Baruch Spinoza, the 250th anniversary of whose death we have just (1927) commemorated, and who himself brought great personal sacrifices under the excommunication ban of his Dutch Jewish brethren in this very cause.

In this group, Socinus, Bayle, Sarpi, Grotius, John Locke, Milton, Oliver Cromwell, Theodosius, Voltaire and Moses Mendelssohn of course also belong. Jellinek also sharply and properly distinguishes between mere "toleration," which presupposes a right of state legislation on the subject (as to which much progress was made before the Virginia Bill of Rights was adopted in June, 1776, as witness English 'Toleration Acts" and the "Edict of Nantes") and the inherent, inalienable right of liberty of conscience, which found express recognition in the great Virginia document in question and in our New York constitution of 1777, and shortly afterwards in the Federal constitution.

Jellinek also demonstrates that most of the famous French Revolutionary declarations of the Rights of Man and of Citizenship, including that relating to religious liberty, were taken bodily from the early American Revolutionary Bills of Rights, at the immediate instance of a Lafayette, Mirabeau and Gregoire, seeking counsel both from recent American experiences and from collections of these constitutions immediately published in Europe, and from such American Revolutionary leaders of liberty of thought resident in France as Jefferson, Franklin, Thomas Paine, John Adams and Joel Barlow. The legislators of the French Assembly of 1789 expressly avowed that they were being taken from American precedents. Doubtless Voltaire, Montesquieu, Rousseau, the Encyclopedists, Locke, Bayle, and a host of others, profoundly influenced the action of France in her declarations and constitution-making, but philosophical speculation was one thing, and practical adoption of ready-made and well-working bills of rights of a beloved ally was another and more potent factor. The rest of civilized Europe, before long, followed France's example, and during the last half-century, at least, no self-respecting constitution was complete which did not contain religious liberty provisions, patterned upon those of America and France. We thus note that the very idea of a written constitution, with bills of rights, was an American precedent, and of course the religious liberty provisions were American in origin. If time permitted, we could go further, and show how specific references were made later on to American religious liberty precedents in the struggle for Catholic and for Jewish emancipation in England, and how Jefferson's authority was invoked only a few years ago, before the chief law tribunal in England, in overruling the time-honored principle that "Christianity is a part of the common law." [2] The same is true of the struggle for Jewish emancipation in France, Germany, Switzerland, Italy, Roumania, and Russia.

In an able work on *Five American Contributions to Civilization*, the late President Charles W. Eliot emphasized (pp. 18-21) our

> thorough acceptance in theory and practice of the widest religious toleration [which] gave the United States the leadership among the nations in disassociating theological opinion and political rights.

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[2] In the case of Bowman v. Secular Society L. R. (1917), Appeals Cases 406.

He went on to add that

> the partial establishment of religious toleration has been the main work of civilization during the past four centuries [and that our recognition of religious liberty] means, to any competent student of history, that the United States has made an unexampled contribution to the reconciliation of just governmental power with just freedom for the individual.

Writing as far back as 1897, long before the Great War, he said:

> If anyone imagines that this American contribution to civilization is no longer important—that the victory for toleration has been already won—let him recall the fact that the last years of the nineteenth century have witnessed two horrible religious persecutions, one by a Christian nation, the other by a Moslem, one of the Jews by Russia and the other of the Armenians by Turkey.

Nearly a century ago, Lord Brougham described the practice of universal toleration as "the noblest innovation of modern times," [3] and George Bancroft, the distinguished American historian, well said:

> Vindicating the right of individuality even in religion, and in religion above all, the new nation dared to set the example of accepting in its relations to God the principle first divinely ordained in Judæa. It left the management of temporal things to the temporal power; but the American constitution, in harmony with the people of the several states, withheld from the federal government the power to invade the home of reason, the citadel of conscience, the sanctuary of the soul; and not from indifference, but that the infinite spirit of eternal truth might move in its freedom and purity and power.[4]

Similarly, Castelar, the great Spanish statesman, described our country as created "for a new order of society, that was predestined by Providence to put an end to all intolerance and to dedicate an infinite continent to modern democracy." [5]

David Dudley Field, the great jurist and student of international law, well said in describing "American Progress in Jurisprudence":

> The greatest achievement ever made in the cause of human progress is the total and final separation of the state from the church. If we had nothing else to boast of, we could claim with justice that first among the nations, we of this country made it an article of organic law that the relations between man and his maker were a private concern, into which other men had no right to intrude. To measure the stride thus made for the emancipation of the race, we

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[3] Cited in Charles J. Stilles, *Religious Tests in Provincial Pennsylvania*, p. 5.

[4] *History of the Formation of the Constitution of the United States*, Vol. II, p. 324.

[5] "History of the Discovery of America," in *Century Magazine*, 1892, p. 589.

> have only to look back over the centuries that have gone before us, and recall the dreadful persecutions in the name of religion that have filled the world with horror.[6]

In an official state paper our Secretary of State, Thomas F. Bayard, well said:

> Religious liberty is the chief cornerstone of the American system of government, and provisions for its security are imbedded in the written charter and interwoven in the moral fabrics of its laws. Anything that tends to invade a right so essential and sacred must be carefully guarded against, and I am satisfied that my countrymen, ever mindful of the suffering and sacrifices necessary to obtain it, will never consent to its impairment for any reason or under any pretext whatsoever.[7]

Space unfortunately prevents quoting similar apt passages from Simeon E. Baldwin's *Modern Political Institutions*, Lecky's *Democracy and Liberty* and the works of De Tocqueville, Bryce, Schaff, Straus and Luzzatti.[8]

In an interesting study of "James Madison, the Constructive Statesman," John Fiske, the historian, in his *Essays, Historical and Literary*, points out that "there were five men distinguished above all others, in an especial sense, who deserve to be called the five founders of the American Union," whom he names chronologically: George Washington, James Madison, Alexander Hamilton, Thomas Jefferson and John Marshall. He points out that "the names of Madison and Marshall are much less often upon people's lips than the others," as they were personally less picturesque, but he ably vindicated Madison's right to be included among the five, despite the disposition to credit to others some of his chief activities. In similar fashion Claude G. Bowers, in his brilliant work *Jefferson and Hamilton*, vindicates Madison's claims, and styles him "Father of the Constitution." A study of the championship of religious liberty, at the time of the founding of our government, shows that all five of these men rendered signal services in the great cause of religious liberty, and that Madison, probably even more than Jefferson, was the most zealous worker in the field. A galaxy of others, scarcely less important than these five, were also fathers of the republic who rendered signal service at a critical period in establishing this great principle.

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[6] *American Law Review*, Vol. 27, p. 645.

[7] *Foreign Relations of the United States for 1885*, pp. 48-51 (summarized in Moore's *International Law Digest*, IV, pp. 480-483); in connection with the Keiley case, with President Cleveland's express approval.

[8] See Philip Schaff's valuable *Church and State in the United States* (1888); Oscar S. Straus' *Origin of Republican Form of Government in the United States; Roger Williams; Religious Liberty in the United States*, reprinted in his *The American Spirit*, and *Under Four Presidents*, and Luigi Luzzatti's work, published in German abridged form under the title *Freiheit des Wissens und Gewissens* and in enlarged Italian version in 1926 under the title *Dio Nella Libertà* (*God in Freedom*). See also Ruffini's *Religious Liberty* (1912) Van Loon's *Toleration* (1925) and Cobb's *Rise of Religious Liberty in America;* also my papers in Pub. Am. Jew. Hist. Society Nos. 6, 11, 13, 20, 24, 26 and 31; J. F. Jameson's *The American Revolution Considered As a Social Movement;* M. M. Feuerlicht's "Influence of Judaism on the Founders of the Republic" in *Year Books of the Central Conference of American Rabbis*, Vol. 36; Andrew D. White's *Seven Great Statesmen;* Humphrey's *Nationalism and Religion in America 1774-1789*, and John B. Bury's *History of Freedom of Thought.* Strangely enough, the last-cited work does not even mention Jefferson and Madison.

It is difficult for us to realize to-day how far removed the country was, at the beginning of the Revolution, from recognizing absolute religious liberty on its statute books, or even in practice. Professor Claude Van Tyne, in fact, in an able paper on "Influence of the Clergy and of Religious and Sectarian Forces on the American Revolution" [9] shows that resentment at religious persecution and dissension was an important factor in bringing on the Revolution. At the time, Congregationalism constituted the established religion in Massachusetts, New Hampshire and Connecticut; the Church of England in all the southern colonies, and partially in New York and New Jersey; and in Rhode Island, Pennsylvania and Delaware, Protestantism. We had also, of course, considerable numbers of Quakers, Huguenots and freethinkers, together with about eighteen thousand Catholics (located chiefly in Maryland and Pennsylvania), and about one-sixth as many Jews. Where there was a church establishment there was naturally an irresistible temptation to persecute dissenters, and laws adopted or borrowed from the home country made this particularly true in colonies where the Church of England was established, especially in Virginia. While many of the colonies were, of course, formed particularly to afford religious asylum for particular sects, including Puritan and Pilgrim in New England, Quaker in Pennsylvania, and Catholic in Maryland, practically none of them welcomed those thinking differently from the majority, and even the plans of Roger Williams, the "pioneer of religious liberty in America" for universal toleration were partially thwarted by his associates and the mother country, as were also those of the Calverts for the Roman Catholics, for whom they established a colony in Maryland. There was scarcely a single colony in which Catholic, Jew or freethinker could lawfully fill public office, and scarcely one in which the Roman Catholics could lawfully hold public religious service. Especially in Virginia, dissenters from the established church were undergoing persecutions embracing even imprisonment, and the same was true of Catholics in most of the colonies. As far as the Jews were concerned, however, especially after Parliament in 1740 expressly authorized their naturalization in the colonies, they had acquired in practice almost full rights all over the country, except the right of holding public office, and a liberal construction of the laws had enabled David Franks in Pennsylvania, Joseph Ottolenghi in Georgia and Francis Salvador in South Carolina even to take seats in the colonial assemblies without question; their small number prevented agitation against them, unlike most dissenters from established

[9] American Historical Review, Vol. XIX, pp. 44-64. Compare A. L. Cross: *The Anglican Episcopate and the American Colonies.*

religions. The Revolution, however, brought men of all creeds together in concerted action, and the leaders grew to know and esteem each other, and to recognize that in union was strength. *E pluribus unum!*

When the Virginia constitutional convention met, in May, 1776, to frame a constitution for the state, pursuant to the recommendation of Congress, it was decided to include in the same a bill of rights, to safeguard individual liberty, and what Gaillard Hunt, Madison's biographer, ably described as "the first written constitution of a free state" resulted. The "Bill of Rights" was drafted by George Mason, one of the ablest and most distinguished Virginia champions of the rights of the colonies, and in its original form it included no provision safeguarding religious liberty. Subsequently, an article on the subject was added, which Madison, years later, stated had been framed by Mason, and a copy of the entire bill of rights resolution in Mason's handwriting has been preserved. His claim to fame in this regard has been strongly espoused by a descendant, Mrs. Kate Mason Rowland, in her *Life of George Mason* (Vol. I, pp. 236-248), particularly as against the claims of Patrick Henry, the great revolutionary orator and leader, as espoused by his descendant, Wm. Wirt Henry, in his *Patrick Henry's Life, Correspondence and Speeches* (Vol. I, pp. 430-435), reiterating claims previously made in *American Historical Association Papers* (II, 24-30; III, 205-211, 455-464). Patrick Henry's claim to original authorship is based upon recollection reduced to writing many years later by Edmund Randolph, the patriot, to the effect that Henry had introduced this provision before the convention, but Monroe D. Conway, Randolph's biographer (pp. 158-166), himself attributes it to Mason, as also do others, believing that Randolph's recollection of Henry's vehement espousal of the plan misled him years later, and Henry had in fact distinguished himself in this same cause years previously as champion for the defense in the trial of a Virginia case which became famous as the "Parson's Cause." [10]

As introduced, the clause accorded "the fullest *toleration* in the exercise of religion," and this clause seemed to James Madison—then a comparatively unknown young man of twenty-five, who had been deeply outraged by the brutal persecutions of Virginia dissenters—to predicate liberty of conscience upon erroneous grounds, as mere "toleration," besides being too narrow and unsatisfactory in other respects. Accordingly he offered a very able substitute, which read:

> That religion, or the duty we owe our Creator, and the manner of discharging it, being under the direction of reason and conviction only, not of violence or compulsion, all men are equally entitled to the full and free exercise of it, according to the dictates of conscience; and therefore that no man or class of men ought, on account of religion, to be invested with peculiar emoluments or privileges, nor subjected to any penalties or disabilities, unless under color of religion

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[10] See Eckenrode's able *Separation of Church and State in Virginia,* pp. 25-26.

> the preservation of equal liberty and the existence of the state be manifestly endangered.

Madison's plea for elimination of the phrase "toleration" and the substitution of the doctrine of right of free exercise of religion instead, appealed to the convention, but its members were not prepared to go as far as he recommended. Accordingly, a clause was adopted instead, reading:

> That religion, or the duty we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love and charity toward each other.[11]

In this form the clause was adopted, and Madison's biographers, Rives and Hunt, have well pointed out that the inclusion of Madison's phraseology would have obviated the long struggle which culminated in the passage of the Virginia Act of 1785, for his clause was omitted, which read: "no man or class of men ought, on account of religion, to be invested with peculiar emoluments or privileges, nor subjected to any penalties or disabilities." The clause was improved upon, as we shall see, in various later constitutions, but it was the forerunner of all constitutional safeguards of religious liberty. In his biography of Randolph (p. 161) Moncure D. Conway, Thomas Paine's leading biographer, points out that Madison thus anticipated Paine's famous distinction of 1791 between "toleration" and "inherent right."

While the Virginia constitutional convention met, Thomas Jefferson was actively engaged in drafting the Declaration of Independence and espousing it before the Continental Congress, though he had been commissioned by Virginia to draft a revision of her laws, and a few weeks afterwards resigned from Congress and returned to his native state for that purpose. He had meantime, at some unascertained date between May 27 and June 15, 1776, drafted a proposed constitution for Virginia, which did not reach there until after the adoption of the religious liberty provision. In Jefferson's draft (which was less comprehensive than Madison's) the proposed clause read: "All persons shall have full and free liberty of religious opinion; nor shall any be compelled to frequent or maintain any religious institution." [12]

Eckenrode's able work shows that the struggle for complete separation of church and state in Virginia continued right along, in numerous phases, even after the adoption of their bill of rights, and Ford's *Writings of Jefferson* (Vol. II, pp. 92-103) contains numerous relevant notes of arguments employed by Jefferson in the Virginia Assembly, dated by Hunt as written in 1776. Particularly striking among these is his quotation from John Locke's writings: "Neither Pagan nor Mohammedan nor Jew ought to be excluded from the civil rights of the Commonwealth because of his religion," which Locke had embodied in substance in the charter of the Carolinas. Obnoxious law after law was repealed by Virginia under Jefferson's lead during Revolutionary times, and annual proposed enactments of assessments for the maintenance of the established church failed of passage, in connection with which Jefferson drafted the famous bill of 1779, whose enactment Madison secured in 1785, as will presently appear. Of course, disestablishment created an anomalous situation, particularly at a time of financial distress induced by war conditions, for the clergy of the established church, whose salaries had been paid out of public funds, and it is not to be wondered at that they and their friends made strenuous efforts to continue assessments for religious purposes, in which all sects were to share alike. The leader of the opposition to such public grants for religious purposes was Madison, after Jefferson went abroad to succeed Franklin as our representative in France, while, strangely enough, Patrick Henry led the forces favoring religious assessments, with the cooperation of Richard Henry Lee and John Marshall, and even, at first, of Washington. On November 11, 1784, a resolution in favor of a public assessment for Christian religious purposes, drawn by Henry, was carried in the Virginia Assembly over Madison's opposition by a vote of forty-seven to thirty-two. Its bearings on Jews and freethinkers was clearly understood, as also the attempted interference of the state with religious concerns. Writing to James Monroe on November 26, 1784, Beverley Randolph wrote that under it "Turks, Jews and infidels were to contribute to the support of a Religion whose truths they did not acknowledge." Madison himself wrote to Monroe about the same time: "The principal attention of the House has been and is still occupied with a scheme for a general assessment. . . . In its present form it excludes all but Christian sects." He also wrote a similar letter to Jefferson. Though a committee of the legislature, on December 3, 1784, reported "a bill establishing a provision for teachers of the Christian religion," Madison succeeded, on December 24, 1784, after its second reading, in securing passage of a resolution postponing final action till the following November, and directing that copies of the bill should be meantime printed and distributed in every county, and people be requested "to signify their opinion respecting the adoption of such a measure." The issue was subjected meantime to the widest discussion, and at the request of Mason and George Nicholas, Madison prepared his famous "Memorial and Remonstrance" (Rives, *Madison*, Vol. I, pp. 634-640) against the bill, in the course of which he said:

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[11] Poore's *Federal and State Constitution*, p. 1909; also Thorpe's *Constitutions*, p. 3814.

[12] Ford's *Writings of Jefferson*, Vol. II, p. 27.

> Who does not see that the same authority which can establish Christianity to the exclusion of all other religions may establish, with the same ease, any particular sect of Christians in exclusion of all

> other sects? That the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment may force him to conform to any other establishment, in all cases whatsoever. . . . The proposed establishment is a departure from that generous policy, which, offering an asylum to the persecuted and oppressed of every nation and religion, promised a lustre to our country and an accession to the number of its citizens. What a melancholy mark is the bill of sudden degeneracy! Instead of holding forth an asylum to the persecuted, it is itself a signal of persecution. It degrades from the equal rank of citizens all those whose opinions in religion do not bend to those of the legislative authority. Distant as it may be, in its present form, from the Inquisition, it differs from it only in degree. The one is the first step, the other the last, in the career of intolerance. The magnanimous sufferer under this cruel scourge, in foreign regions, must view the bill as a beacon on our coast, warning him to seek some other haven, where liberty and philanthropy, in their due extent, may offer a more certain repose from his troubles. . . . It will have a like tendency to banish our citizens. The allurements presented by other situations are every day thinning their number. To superadd a fresh motive to emigration, by revoking the liberty which they now enjoy, would be the same species of folly which has dishonored and depopulated flourishing kingdoms.[13]

Madison had made no mistake in suggesting this appeal to the people. As his biographer Rives says:

> When the Assembly met in October, the table of the House of Delegates almost sunk under the weight of the accumulated copies of the memorial sent forward from the different counties, each with its long and dense columns of subscribers. The fate of the assessment was sealed. The manifestation of the public judgment was too unequivocal and overwhelming to leave the faintest hope to the friends of the measure. It was abandoned without a struggle. Under cover of this signal victory, won before the people by the irresistible voice of truth, the declaratory act for the "establishment of religious liberty," which had been drawn by Mr. Jefferson as one of the committee of revisors, and presented to the legislature in 1779 with the rest of the revised bills, was taken up and passed into a law. The

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[13] At a general convention of the Presbyterian church of Virginia, which met in August, 1785, a memorial against the proposed general assessment was unanimously adopted, which specified as one ground of objection, that the bill provided for no religion but Christianity, excluding Jews and Mohammedans, as pointed out in Eckenrode's work (p. 107). The Virginia constitutional provision has been construed so broadly as to forbid interrogating a witness as to his religious views [*Perry* vs. *Commonwealth* 3 *Grattan,* (Va. 1846) 632] despite the common law rule which made witnesses not believing in a God punishing perjury in an after-life at first incompetent, then discredited. Similar rulings were made in *Bush vs. Kentucky* 80 *Kentucky* 244 and *Brink* vs. *Stratton,* 176 *N. Y.* 150.

> "Memorial & Remonstrance" had cleared away every obstruction, and so smoothed the ground before it that its passage became a matter of course. (*Ibid.*, p. 632.)

This much discussed but seldom quoted "*Act for Establishing Religious Freedom*" reads as follows:

> SECTION I. Well aware that the opinions and beliefs of men depend not on their own will, but follow involuntarily the evidence proposed to their minds; that Almighty God hath created the mind free, and manifested His supreme will that free it shall remain, by making it altogether insusceptible of restraints; that all attempts to influence it by temporal punishments, or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of religion, who being lord both of body and mind, yet chose not to propagate it by coercion on either, as was in his Almighty power to do, but to extend it by its influence on reason alone; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true, and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world and through all times; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness; and is withdrawing from the ministry those temporary rewards, which, proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labors for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than on opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which, in common with his fellow citizens, he has a natural right; that it tends also to corrupt the principles of that very religion it is meant to encourage, by bribing with a monopoly of worldly honors and emoluments those who will externally profess and conform to it; that though indeed those are criminal who do not withstand such temptations, yet neither are those innocent who lay the bait in their way; that the opinions of men are not the object of civil government, nor under its jurisdiction;

> that to suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is enough for the rightful purposes of Civil Government for its officers to interfere when principles break out into overt acts against peace and good order; and, finally, that truth is great and will prevail if left to herself, that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them.
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> SECTION II. We, the General Assembly of Virginia, do enact that no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested or burdened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge or affect their civil capacities.
>
> SECTION III. And though we all know that this Assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding Assemblies, constituted with powers equal to our own, and that, therefore, to declare this act irrevocable would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted are of the nature of natural rights of mankind, and that if any act shall be hereafter passed to repeal the present or to narrow its operation, such act will be an infringement of natural right.[14]

This Act is an exposition of what we proudly cherish and proclaim as the American principle of absolute religious liberty. Extremely suggestive in this connection is the following paragraph from Jefferson's Autobiography:

> The bill for establishing religious freedom, the principles of which had, to a certain degree, been enacted before, I had drawn in all the latitude of reason and right. It still met with opposition; but, with some mutilations in the preamble, it was finally passed; and a singular proposition proved that its protection of opinion was meant to be universal. Where the preamble declares that coercion is a departure from the plan of the holy author of our religion, an amend-

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[14] Hening, Virginia Statutes, Vol. XII, p. 84-86; Journal of the House, December 17, 1785, January 19, 1786; Humphrey, *ut supra*, p. 402; Ford, *Jefferson's Writings*, Vol. II, pp. 438-441.

> ment was proposed, by inserting the words "Jesus Christ," so that it should read, "a departure from the plan of Jesus Christ, the holy author of our religion"; the insertion was rejected by a great majority, in proof that they meant to comprehend, within the mantle of its protection, the Jew and the Gentile, the Christian and Mohammedan, the Hindoo, and infidel of every denomination. (Ford's *Jefferson*, Vol. I, p. 62.)

In a letter to Madison, written December 16, 1786, Jefferson said:

> The Virginia Act for religious freedom has been received with infinite approbation in Europe, and propagated with enthusiasm. I do not mean by the governments, but by the individuals which compose them. It has been translated into French and Italian, has been sent to most of the courts of Europe, and has been the best evidence of the falsehood of those reports which stated us to be in anarchy. It is inserted in the new Encyclopædia, and is appearing in most of the publications respecting America. In fact, it is comfortable to see the standard of reason at length erected, after so many ages during which the human mind has been held in vassalage by kings, priests, and nobles; and it is honorable for us to have produced the first legislature who had the courage to declare that the reason of man may be trusted with the formation of his own opinions. (Ford's *Jefferson*, Vol. IV, p. 334.)

So proud was Jefferson of his services in this cause that in the epitaph which he prepared, to be placed on his tombstone, he linked with the words "author of the Declaration of Independence," the further words "of the Statute of Virginia for Religious Liberty and Father of the University of Virginia." The United States Supreme Court, in its decision in the case of *Reynolds* v. *United States 98 U. S. 145*, involving the constitutionality of the Federal act against polygamy, narrates the history of this Virginia Act and its enactment as illustrative of the meaning, scope and proper limitations of the Federal constitutional provision establishing religious liberty.

Washington is supposed to have originally favored the Virginia religious assessments, but he ultimately espoused Madison's views on the subject, and we will presently see that he strongly favored the Federal constitutional amendment establishing religious liberty. Under date of October 3, 1785, in the midst of the Virginia struggle, he wrote to George Mason, advising that the proposed assessment should be dropped, and wrote that "no man's sentiments are more opposed to any kind of restraint upon religious principles than mine are," though he supposed that even under the assessment bill persons might "declare themselves Jews, Mohammedans or otherwise, and thereby obtain proper relief." [15]

The Virginia precedent was immediately invoked in Europe, in favor of Jewish emancipation there. Mirabeau, in his famous work in favor of

[15] Ford's *Writings of Washington*, Vol. X, pp. 506-507.

this cause, called attention to the fact that Moses Mendelssohn had argued in favor of religious liberty in almost the same language as was found in this Virginia Act, and the French Jews in their petition to the National Assembly in 1790 expressly urged that France follow America's example.[16]

Meantime, however, other states had been adopting constitutions. That of Pennsylvania was adopted September 28, 1776, and contains an admirably phrased religious liberty provision, vitiated, however, by a sectarian religious test for public office. It reads as follows:

> That all men have a natural and unalienable right to worship God according to the dictates of their own consciences and understanding, and that no man ought or of right can be compelled to attend any religious worship or erect or support any place of worship or maintain any ministry, contrary to and against his own free will and consent; nor can any man who acknowledges the being of a God be justly deprived or abridged of any civil right as a citizen on account of his religious sentiments, or peculiar mode of religious worship; and that no authority can or ought to be vested in or assumed by any power whatever that shall in any case interfere with or in any manner control the right of conscience in the free exercise of religious worship. (*Poore*, p. 1541; 5 *Thorpe* 3082.)

The Test provision, however, reads:

> And each member (of the Assembly) before he takes his seat, shall make and subscribe the following declaration: "I do believe in one God, the creator and governor of the universe, the rewarder of the good and punisher of the wicked, And I do acknowledge the Scriptures of the Old and New Testament to be given by Divine Inspiration." And no further or other religious test shall ever hereafter be required of any civil officer or magistrate in this state.[17]

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[16] See my article in *Pub. American Jewish Historical Society*, No. 11, pp. 56-57 on "Phases in the History of Religious Liberty in America, with Special Reference to the Jews." The first part of Mendelssohn's *Jerusalem* (1783) is devoted to a plea for the separation of church and state. It has been described by Dr. M. Kayserling, Mendelssohn's biographer (p. 362) as the first work in German expounding these views. Immediately after the publication of this work, Kant, the philosopher, wrote to Mendelssohn regarding it, under date of August 16th, 1783: "I regard this book as the announcement of a great, though slowly arriving and developing reform, which will affect not only your nation, but also others. You have managed to unite with your religion such a spirit of freedom and tolerance, as it had not had credit for, and such as no other faith can boast. You have so thoroughly and clearly presented the necessity of an unlimited liberty of conscience for every faith, that at length, on our side, too, the church must do some serious thinking" (Kant's *Gesammelt Schriften*, Vol. X (1922), p. 347). Even before this work was published, Mendelssohn in his introduction to a German translation of Manasseh ben Israel's *Hope of Israel* (1782) had criticized his friend and disciple Dohm, for desiring to have the state vest the Jews with disciplinary powers over their own constituency, and deprecated all exercises of excommunications and anathemas on account of differences of belief, whether among Jews or Christians.

[17] *Poore*, p. 1543; 5 *Thorpe*, 3085. The Delaware provisions are similar in the Constitution proclaimed September 21, 1776, but the test is still more stringent; Poore's *Const.*, pp. 276-278.

Charles J. Stille, in a paper of 1885 on "Religious Tests in Provincial Pennsylvania" (p. 7) contended that "the first enactment of this principle (of religious liberty) into a law on this continent is found in the Constitution of Pennsylvania of 1776," and he had made a similar claim before the American Historical Association (*Papers*, Vol. III, pp. 205-211), but he proceeded on the erroneous theory that Virginia's "Bill of Rights," because detached, was not a part of her constitution, and he simply ignores the obnoxious Pennsylvania religious test which Jonas Phillips of Philadelphia, in a petition to the Federal Constitutional Convention, correctly describes as inconsistent with the religious liberty provision proper (*Pub. American Jewish Historical Society*, No. 2, p. 102), and which the Philadelphia Jewish congregation had petitioned in 1783 should be dropped (Morais' *Jews of Philadelphia*, p. 16). The two leading members of the Pennsylvania convention which framed the constitution of 1776 were Benjamin Franklin, who presided, and David Rittenhouse. To each has been ascribed the draftsmanship of the religious liberty provision proper, but Franklin expressly recorded his dissent from the religious test provision, which was adopted over his objection, and Rittenhouse's biographer Barton (pp. 262-3) disclaims for his subject influence in framing the constitution. Under date of August 21, 1784, Benjamin Franklin, in summarizing an earlier letter he had written to Dr. Joseph Priestley, which miscarried, said:

> I agreed with you in Sentiments concerning the Old Testament, and thought the Clause in our Constitution which required the Members of Assembly to declare their belief *that the whole of it was given by divine Inspiration*, had better have been omitted. That I had opposed the Clause, but being overpowered by Numbers, and fearing more might in future Times be grafted on it, I prevailed to have the additional Clause "*that no further or more extended Profession of Faith shall ever be exacted*." I observed to you, too, that the Evil of it was the less, as no *Inhabitant*, nor any Officer of Government, except the Members of Assembly, were obliged to make that Declaration (Smyth's *Life and Writings of Benjamin Franklin*, Vol. IX, p. 266).

On the other hand, some objected to the constitution because "the Christian religion was not treated with proper respect" (Pennsylvania Magazine, Vol. V, pp. 432-433).[18]

Even previously, in writing to Richard Price, the British champion of religious freedom, Franklin said, on October 9, 1780:

> I am fully of your Opinion respecting religious Tests; but, though the people of Massachusetts have not in their new Constitution kept quite clear of them, yet, if we consider what that People were 100 years ago, we must allow they have gone great Lengths in

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[18] See Samuel B. Harding's "Party Struggles Over the First Pennsylvania Constitution," in *American Historical Association Reports* for 1894, pp. 371-402.

> Liberality of Sentiment on religious Subjects; and we may hope for greater Degrees of Perfection, when their Constitution some years hence, shall be revised. . . . When a Religion is good, I conceive that it will support itself; and when it cannot support itself, and God does not take care to support, so that its Professors are obliged to call for the help of the Civil Power, it is a sign, I apprehend, of its being a bad one. (Smyth's *Life and Writings of Franklin*, Vol. VIII, pp. 153-154.)

Franklin, of course, in practice, showed his sympathy for all creeds, and on March 9, 1790, he wrote to Ezra Stiles:

> All Sects here, and we have a great Variety, have experienced my good will in assisting them with Subscriptions for building their new Places of Worship; and as I have never opposed any of their Doctrines, I hope to go out of the World in Peace with them all. (*Ibid.*, Vol. X, p. 85.)

One of the sects thus aided by Franklin was the Jewish, his name figuring as a subscriber for erecting a synagogue in the sum of five pounds on a list dated Philadelphia, April 30, 1788, in conjunction with those of David Rittenhouse and Thomas McKean, in unconscious imitation of a list of Jewish subscribers to a fund for building a steeple for Trinity Church, New York, seventy-seven years previously, which was headed by the local Rabbi, De Lucena. (*Pub. American Jewish Historical Society*, No. 3, p. 85.)

Similarly, Turgot, the French statesman, wrote to Dr. Richard Price on May 22, 1778:

> You blame with reason that [the constitution] of Pennsylvania, for enacting a religious test upon admission into the representative body. It is much worse in others. (*John Adams' Works*, Vol. IV, p. 279.)

When a new constitution was drafted for Pennsylvania in 1790, the test oath was modified, so as to read:

> That no person who acknowledges the being of God and a future state of rewards and punishments, shall on account of his religious sentiments, be disqualified to hold any office or place of trust or profit under this commonwealth. (Poore's *Const.*)

Even this clause was unsatisfactory to Albert Gallatin, who was among the thirteen out of sixty voting in favor of eliminating all religious qualifications (*Proceedings Relating to the Calling the Conventions of 1776 and 1790 and Minutes of the Convention . . . of Pennsylvania,* pp. 376-377).

In the interim, the cause of religious liberty had, of course, been advanced by the adoption of the Federal Constitution and the drafting of the 1st Amendment, as also by Thomas Paine's writings on this subject. Already in 1776, Paine, in his public epistle to the Quakers, wrote:

"As to religion, I hold it to be the indispensable duty of all governments to protect all conscientious professors thereof, and I know of no other business which government hath to do therewith." In 1791, in his famous *Rights of Man*, in commenting on the French constitution, he wrote:

> The French Constitution has abolished or renounced Toleration, and Intolerance also, and hath established Universal Right of Conscience. Toleration is not the opposite of intoleration, but the counterfeit of it. Both are despotisms. The one assumes the right of withholding liberty of conscience, and the other of granting it. . . . Who then art thou, vain dust and ashes, by whatever name thou art called, whether a king, or bishop, a church or a state, a parliament or anything else, that obtrudes thine insignificance between the soul of man and his maker? Mind thine own concern! (Conway's *Life of Paine*, Vol. II, pp. 204, 208.)

The New York Constitution of 1777, unlike the Pennsylvania constitution of 1776, had no religious test for office, but, on the other hand, contained an equally satisfactory, though heated, guarantee of religious liberty. It was not adopted without a severe struggle, however, in the course of which a serious impairment of the rights of Roman Catholics, sponsored by its most distinguished member, John Jay, was voted down. Until then Catholics neither enjoyed the right of public worship nor to hold office in the state. Nearly the whole constitution was drafted by Jay, who was a member of a committee which also included Wm. Duer, Gouverneur Morris, Robert R. Livingston, John Morin Scott and Abram Yates, appointed for this purpose as early as August, 1776, and all of whom seem to have been active in draftsmanship. The committee did not report until March 12, 1777, and the Constitution was not adopted until April 20, 1777, section by section being debated meantime and materially altered. None received fuller consideration than the religious liberty article, which, as adopted, read:

> Art. 38. And whereas we are required, by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against the spiritual oppression and intolerance wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind, this convention doth further in the name and by the authority of the good people of this State, ordain, determine and declare that the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever hereafter be allowed within this State to all mankind. Provided that the liberty of conscience hereby granted, shall not be so construed as to excuse acts of licentiousness. (*Poore*, p. 1338; 5 *Thorpe* 2636.)

By Article 35, moreover, the English common law was continued except "as it may be construed to establish or maintain any particular denomination of Christians or their ministers." (*Poore*, p. 1338.)

This was a substitute for the committee draft of a reservation, which excepted: "or respects the Church of England or are incompatible with a free and equal toleration of all Denominations of Christians without distinction or preference" (Lincoln's *Constitutional History of New York*, Vol. I, pp. 540-543), evidencing a clear intention to protect non-Christians, too.

We have extant the minutes of the convention which framed this constitution (*Journals of the Provincial Congress, Provincial Convention, Committee of Safety* and *Council of Safety of the State of New York, 1775-1776-1777*), and the diligence of the author of Lincoln's *Constitutional History of New York* has recently unearthed two successive unpublished reports of Jay's committee, embodying the Constitution as reported by them (Vol. I, pp. 498-499, 541-545, 185-186). Those show that the religious freedom article underwent very material changes. One material alteration made by the convention itself from both committee drafts was the elimination of the phrase that "free toleration be forever allowed," and the substitution of the phrase "free exercise and enjoyment of religious profession and worship" (*Ibid.* 541-5), very likely in consequence of Madison's successful modification of the provision in the Virginia constitution the preceding year.

Another interesting change was made by the committee itself, in modifying its first draft, which had read:

> to all denominations of Christians without preference or distinction, and to all Jews, Turks and Infidels, other than to such Christians or others as shall hold and teach for true Doctrines, principles incompatible with and repugnant to the peace, safety and welfare of civil society in general or of this state in particular, of and concerning which doctrines and principles the legislature of this State shall from time to time judge and determine; and further, as the prevalence of Religion and learning greatly contribute to the Happiness and Security of the people of every free State, the legislature of this State ought to afford them all proper encouragement.

For this the committee itself substituted the words, "That the free Toleration of religious profession and worship be forever allowed within the State to all mankind," thus using even more comprehensive terms than its enumeration of "all denominations of Christians" and "all Jews, Turks and Infidels." (*Ibid.*, p. 541.)

Fortunately, too, the unwise and unsatisfactory suggested expedient of having the legislature itself from time to time "judge and determine" whether particular religious doctrines and principles were or were not "incompatible and repugnant to the peace, safety and welfare of the state," in an organic law whose chief purpose in such clauses was to limit its authority, was abandoned.

Jay, however, was of Huguenot stock, and his family had itself suffered from Catholic persecutions, and he was strongly prejudiced against the Catholic church. Accordingly, on March 20, 1777, when this paragraph was read for consideration (*Journals*, I, 844), he moved an amendment which would have restored the earlier committee exception of sects or denominations

> who inculcate and hold for true doctrines, principles inconsistent with the safety of civil society, of and concerning which the Legislature of this State shall from time to time judge and determine.

After considerable debate he secured leave to withdraw this amendment, and came out in the open with the following proviso, embodying a most serious express qualification of the civil as well as political rights of Catholics:

> Except the professors of the religion of the church of Rome, who ought not to hold lands in, or be admitted to a participation of the civil rights enjoyed by the members of this State, until such time as the said professors shall appear in the Supreme Court of this State, and there most solemnly swear that they verily believe in their consciences that no pope, priest or foreign authority on earth hath power to absolve the subjects of this State from their allegiance to the same. And further that they renounce and believe to be false and wicked the dangerous and damnable doctrine that the pope or any other earthly authority have power to absolve men from sins described in and prohibited by the Holy Gospel of Jesus Christ; and particularly that no pope, priest or foreign authority on earth, hath power to absolve them from the obligation of this oath.

After long debate the amendment was rejected by a vote of nineteen to ten, Albany's six votes, Dutchess' five and New York County's eight votes (with Jay and Van Zandt dissenting) being cast in opposition to the amendment, while Orange's three, Tryon's three and Ulster's four were cast in its favor, with one dissenting vote from both Orange and Ulster counties, and with Westchester divided. Chancellor Robert R. Livingston,[19] Gouverneur Morris, John Morin Scott and William Duer seem to have been the chief opponents of this amendment, which would have practically excepted the Catholics from the enjoyment of civil and political rights in the state, and caused the civil power of the state to coerce individuals from entertaining particular religious beliefs. Considerable further debate on further amendments to the clause followed, in which Chancellor Livingston and Gouverneur Morris were particularly active in the cause of religious liberty, as against Jay, and Gouverneur Morris ultimately offered the proviso in the form in which it was adopted in substance. (*Journals*, I, 844, 845, 860, 892.)

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[19] In an interesting article on "Growth of Religious Liberty in New York City," by Nelson P. Mead in *Proceedings of the N. Y. State Hist. Association*, Vol. 17 (1919), pp. 141-153 at 151, reference is made to the services of William Livingston in the cause of religious liberty. He publicly opposed the establishment of the Anglican church in New York in 1753-1755, as also the institution of King's College as a sectarian institution. The Livingstons, John Morin Scott, McDougall and Wm. Smith, Jr., also figure prominently in connection with an intercolonial movement for religious freedom, described by Prof. Herbert L. Osgood under the title "Society of Dissenters founded at New York in 1769" in *Am. Hist. Review*, Vol. VI, p. 498.

Most of Jay's own biographers have condemned his course in the matter, and President Theodore Roosevelt in his biography of Gouverneur Morris (pp. 64-66) gives him chief credit for defeating Jay's project, and we will see that Morris was destined thereafter to render further signal service in the cause of religious liberty. In the course of the passage in question, President Roosevelt well said:

> The Convention did one most praiseworthy thing in deciding in favor of complete religious toleration. This seems natural enough now; but at that time there was hardly a European state that practiced it. Great Britain harassed her Catholic subjects in a hundred different ways, while in France, Protestants were treated far worse, and in fact could scarcely be regarded as having any legal standing whatever. On no other point do the statesmen of the Revolution show to more marked advantage when compared with their European compeers than in that of complete religious toleration. Their position was taken, too, simply because they deemed it to be the right and proper one; they had nothing to fear or hope from Catholics, and their own interests were in no wise advanced by what they did in the matter.

As to Jay's amendment, Theodore Roosevelt also well said:

> This second point, however important, was of purely theological interest, and had absolutely nothing to do with the state constitution; as to the first proposition, it might have been proper enough, had there been the least chance of a conflict between the Pope, either in his temporal or in his ecclesiastical capacity, and the United States; but as there was no possibility of such a conflict arising, and as, if it did arise, there would not be the slightest danger of the United States receiving any damage, to put the sentence in would have been not only useless, but exceedingly foolish and harmful, on account of the intense irritation it would have excited.

It should also be noticed that Article 39 of the New York constitution of 1777 specifically made clergymen of all denominations ineligible to hold public office, expressly on the theory that their concern was essentially religious, not civil, and similar provisions were found in the constitutions of Revolutionary times of Virginia, Delaware, Maryland and Georgia. An interesting letter written in 1788 by Madison to Jefferson (who approved of such clauses) has been preserved (Hunt's *Writings of Madison*, Vol. V, p. 288), in which Madison strongly criticizes such provisions, as an unjust discrimination against a class of our citizens. As regards Jay, it should be observed that he changed his views regarding religious liberty provisions, and that it was on his motion that the New York constitutional convention ratified the constitution of the United States, with its provision against a religious test, and that the New York convention's resolution recited its "full confidence" that proposed amendments would be adopted, including a comprehensive religious liberty clause.

In South Carolina we find that an anomalous situation arose. Her constitution of 1776, which was adopted by her Provincial Congress, and not by a constitutional convention specially elected for the purpose, contained no religious liberty provision, nor any religious test, but as the then subsisting statutes established the Episcopalian church there, such religious establishment continued, though a professing Jew, Francis Salvador, was a prominent member of that very assembly. Almost immediately, a vigorous movement for disestablishment began, initiated by a Presbyterian clergyman, Rev. Wm. Tennent, and he was thereupon elected to the assembly, where his efforts were strongly supported by General Gadsden, but opposed by Charles Pinckney and Rawlins Lowndes. Action was postponed until the session of 1778 began, when a new constitution was adopted, this time with the support of Charles Pinckney, Gadsden and Chief Justice William H. Drayton, but over the vigorous opposition of the president of the state, John Rutledge (subsequently Chief Justice of the United States), who resigned his post rather than to approve it, but he was reëlected governor the next year. The 1778 constitution (*Poore*, p. 1626) in terms established by Article 38 "the Christian Protestant religion," but provided that "all persons and religious societies who acknowledge that there is one God and a future state of rewards and punishments, and that God is publicly to be worshiped, shall be freely tolerated"; equal religious and civil privileges were assured to "all denominations of Christian Protestants." The constitution was a hurriedly drawn compromise between contending Protestant sects, and caused dissatisfaction from the start. In 1790 a new constitution was adopted, which granted full religious rights to all, including Catholics, Jews and freethinkers, the clause being a condensation of the New York constitution, and embracing "all mankind." [20] It appears that the liberalization of her constitution in this regard was made an express issue in 1790, when delegates to her constitutional convention were for the first time elected, and that the most distinguished candidates, Gen. Gadsden, Charles Cotesworth Pinckney, Edward Rutledge, Thomas Heyward, Jr., John F. Grimke, David Ramsay, Wm. Drayton, John J. Pringle and Daniel De Saussure were elected as avowed advocates of an adequate religious liberty provision.[21] In the biography of Charles Pinckney in the *Cyclopedia of American Biography* (Vol. V, p. 23) we read that "he was the principal agent in the removal of the civil and political disabilities that had been imposed on Jews in South Carolina," and his name is signed to the constitution of 1790 as chairman of the convention. Unfortunately, this interesting contest has not yet been adequately described. But South Carolina promptly elected Jews to public office anew, first to her Assembly, later to her Senate, and then to more important posts.

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[20] McCrady's *History of South Carolina in the Revolution 1775-1780*, pp. 113-115, 122-123, 205-213, 235-244; Snowden's *History of South Carolina*, Vol. I, pp. 353, 357, 496, 505; Ramsay's *History of South Carolina*, Vol. II, p. 40; Geo. Howe's *History of the Presbyterian Church in South Carolina*, Vol. I, 370.

[21] The *Occident*, Vol. I, p. 339, article by "N. L." (N. Levin) on "The Jewish Congregation of Charleston."

At the time of the meeting of the Federal Constitutional Convention in Philadelphia in 1787, however, there were only two states, New York and Virginia, whose laws did not contain either some form of discriminatory religious test for public office or give a legal preference to some religious sect, or sects, including in some instances even express establishment of some denomination.

In the Federal Constitutional Convention of 1787 the question of religious liberty seems to have been first broached by Charles Pinckney of South Carolina, who on May 29, 1787, in his proposed draft of a constitution embodied a clause reading, "The legislature of the United States shall pass no law on the subject of religion." [22] Again Charles Pinckney, on August 20, 1787, suggested an amendment that "no religious test or qualification shall ever be annexed to any office under the United States.[23] Ten days later the provision for an oath for public officers to support the constitution came up in the debates, and the words "or affirmation" were added after "oath," so as to include the Quakers, and Mr. Pinckney moved to add to the article the words "but no religious test shall ever be required as a qualification to any office or public trust under the authority of the United States." Mr. Roger Sherman of Connecticut objected, thinking that the clause was unnecessary, "the prevailing liberality being a sufficient security against such tests." Gouverneur Morris and General Charles Cotesworth Pinckney approved the motion, however, and it was unanimously adopted. It is interesting to note that the main supporters in debate of this provision were Gouverneur Morris and the two Pinckneys, who had previously taken active part in their respective states, New York and South Carolina, in the struggle for religious liberty there. As the convention had decided that no bill of rights as against the Federal government was necessary, on its theory that the Federal government would have only such rights as were expressly granted to it, no effort to enact a further religious liberty clause seems to have been made in the convention. The fact that all religious tests (even in the common form of belief in Christianity) were prohibited, shows clearly what the attitude of the convention was on the question.

In another aspect, however, the question of enactment against religious discrimination came up in the convention, though this is commonly overlooked, because Madison's journal of the debates alone reports the item, and not the official journal of the convention. On August 18, 1787, Charles Pinckney suggested that Congress should be authorized to establish a university, but no action was taken (*Ibid.*, p. 555). On the fourteenth of the following month, doubtless in view of Madison's deep interest in religious liberty, the motion was recast and offered by him and Pinckney jointly, as an authority "to establish an university, in which no preference or distinction should be allowed on account of religion." James Wilson of Pennsylvania supported the motion, but Gouverneur Morris objected to it as unnecessary, as "the exclusive power at the Seat of Government will reach the object." The resolution was defeated, Pennsylvania, Virginia and South Carolina voting in the affirmative, and Connecticut being divided, Dr. William S. Johnson, president of Columbia College approving, and Roger Sherman opposing (*Ibid.*, pp. 745-746).

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[22] Elliott's *Debates in the Several State Conventions on the Adoption of the Federal Constitution*, second ed., Vol. V, p. 131.

[23] *Documentary History of the Constitution of the United States*, Vol. III, p. 566.

Somewhat more informally, however, Alexander Hamilton had previously, in his proposed constitution, suggested to the convention a more comprehensive religious liberty provision than was adopted, reading "nor shall any religious sect or denomination or religious test for any office or place be ever established by law," showing that Jefferson's great rival did not disagree with him on the issue of religious liberty (Lodge's *Works of Hamilton*, Vol. I, p. 348).

As soon as the constitution as drafted was published considerable objection was expressed, particularly at the absence of a bill of rights, and especially one assuring religious liberty. As is well known, Thomas Jefferson (whose absence abroad as his country's representative at the French Court had prevented his being a delegate to the convention), was the main leader in voicing such objection, and under date of Dec. 20, 1787, he wrote from Paris to Madison:

> I will now add what I do not like; first, the omission of a bill of rights, providing clearly and without the aid of sophisms, for freedom of religion, freedom of the press, etc. . . . Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse or rest on inference. . . . To say, as Mr. Wilson does, that a bill of rights was not necessary, because all is reserved in the case of the general government, which is not given, while in the particular ones, all is given, which is not reserved, might do for the Audience to whom it was addressed, but is surely a gratis dictum, opposed by strong inference from the body of the instrument, as well as from the omission of the clause of our present confederation, which had declared that in express terms. (*Documentary History of the Constitution*, Vol. IV, p. 412.)

In a number of the eleven states which ratified the constitution before Washington's inauguration as our first president, ratification was secured only after great difficulty and by narrow majorities, and New Hampshire, Rhode Island, New York, Virginia, North Carolina and the minority party in Pennsylvania suggested religious liberty amendments.[24]

Elliott's *Debates* shows that in the conventions of almost every state some objection was expressed to the absence of a restriction upon the Federal government with respect to legislation regarding religion. In several, minorities, on the other hand, objected to the provision against a religious test, often decrying the fact that Catholics, Jews, Turks or infidels might hold public office, and the objection several times took the form that the Pope might be elected president. It was in the Massachusetts, Virginia and North Carolina conventions that the religious liberty provisions were most fully debated. Strangely enough, liberal religious liberty provisions were most strongly approved of in the Massachusetts convention by clerical members, such as Rev. Mr. Shute, Rev. Mr. Payson and Rev. Mr. Backus, while laymen, Col. Jones and Mr. Lusk, protested at the prohibition of a religious test for office. In the Virginia convention the absence of a prohibition upon Federal impairment of religious liberty was one of the chief arguments of those who opposed ratification, particularly Patrick Henry (*Ibid.*, Vol. III, pp. 317-318), while Madison (*Ibid.*, pp. 93, 330) and Gov. Randolph (*Ibid.*, pp. 204-205, 469) pleaded that it was unnecessary, because an implied prohibition. A series of proposed amendments was drafted by a committee of the Virginia convention which included such a galaxy of distinguished men as Patrick Henry, Governor Randolph, George Mason, Mr. Nicholas, Madison, Monroe, Tyler and John Marshall, and they prepared a religious liberty provision, based upon, but materially improving the clause in Virginia's Bill of Rights, and reading as follows:

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[24] See also Hayward's *Nationalism and Religion in America 1774-1789*, pp. 460-480.

> 20. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men have an equal, natural and unalienable right to the free exercise of religion, according to the dictates of conscience, and that no particular religious sect or society ought to be favored or established by law, in preference to others. (*Ibid.*, p. 659.)

In North Carolina, on the other hand, much of the opposition which led to non-ratification was caused by the absence of an adequate religious liberty clause on the one hand and by opposition by others to the absence of a religious test. James Iredell subsequently Justice of the U. S. Supreme Court, and Gov. Samuel Johnston were the chief defenders of the prohibition of religious tests in that convention.

After the first Congress under the constitution was elected, Washington as President, Vice President John Adams, Hamilton and Jefferson threw their influence in favor of the adoption of a religious liberty bill-of-rights clause, and the task of securing its adoption was assumed by James Madison, who was unquestionably the most distinguished and influential member of the first Congress. On June 8, 1789, Madison offered a series of proposed constitutional amendments for the approval of the House of Representatives, including one concerning religious liberty, reading as follows:

> The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner or on any pretext infringed. . . .
>
> *No State shall violate the equal rights of conscience* or the freedom of the press, or the trial by jury in criminal cases. (*Annals of Congress*, 1834 ed., Vol. I, pp. 434, 435.)

After some discussion, including some objections, the House decided to appoint a committee, consisting of a member from each state, and the committee appointed included, besides Madison, also Boudinot and Sherman; the committee reported proposed amendments July 28, and Madison led the discussion in their support on August 13 (*Ibid.*, pp. 672, 704). As reported, the religious liberty restriction upon the Federal government read, "No religion shall be established by law, nor shall the equal rights of conscience be infringed." (*Ibid.*, 728.) Considerable discussion followed, and Mr. Livermore suggested the substitute phraseology: "That Congress shall make no laws touching religion or infringing the right of conscience," and in this form it was approved in the House.

When the provision above quoted as to the limitation on the states came up (*Ibid.*, p. 755) Madison, in supporting the same, stated that he

> conceived this to be the most valuable amendment in the whole list. If there was any reason to restrain the Government of the United States from infringing upon these essential rights, it was equally necessary that they should be secured against the State Governments. He thought that if they provided against the one, it was necessary to provide against the other, and was satisfied that it would be equally grateful to the people.

After some criticism as to form by Mr. Livermore, and opposition on the merits by Mr. Tucker, this amendment, too, was approved by the House. *It has almost escaped all attention that the House of Representatives had thus approved of such important restraint upon State action, this amendment having failed to meet with the approval of the Senate.* On August 20, on motion of Fisher Ames, the former of these amendments was altered to read: "Congress shall make no law establishing religion or to prevent the free exercise thereof, or to infringe the rights of conscience."

We have very little knowledge of the discussion in the Senate on these amendments, as that body then sat with closed doors, and without anyone to report its debates, and only the journal entries as to votes on actual resolutions have been published by it (*Ibid.*, pp. 72, 73, 74-75, 76-77, 88). Even the chief source of our information as to early Senate debates fails us almost entirely here, as Senator Maclay of Pennsylvania was ill during almost the entire discussion in the Senate, though his *Journal* (p. 134) records that when received from the House all the proposed amendments were treated contemptuously by Messrs. Izard, Langdon and Robert Morris, though the motion to postpone action until the following session was defeated. The *Life and Letters of Richard Henry Lee,* edited by his grandson of the same name, indicated that he was an ardent supporter of them, as was also, naturally, the Catholic senator from Maryland, Charles Carroll of Carrollton. We have a summary of the latter's address in favor of the religious liberty clauses, apparently the only one in the Senate which has been preserved. From Leonard's biography of him (Vol. I, p. 208), we learn that he argued:

> As the rights of conscience are in their nature of peculiar delicacy, and will little bear the gentlest touch of the governmental hand; and as many sects have concurred in opinion that they are not well secured under the present Constitution, he said he was much in favor of adopting the words. He thought it would tend more toward conciliating the minds of the people to the Government than almost any other amendment he had heard proposed. He would not contend with gentlemen about the phraseology, his object was to secure the substance in such a manner as to satisfy the wishes of the honest part of the community.

Probably the circumstance that the demand of the time was for further restraint upon the Federal government, and not upon the states, is responsible for the defeat of the provisions in question, restraining state action, in the Senate. Even as proposed by Congress to the states, Massachusetts, Connecticut and Georgia failed to ratify the first amendment, and the two former states actually rejected it, though the first amendment was duly ratified by a sufficient number of states in 1791. Madison disappointedly wrote to Governor Randolph regarding the Senate's action on Sept. 14, 1789: "The Senate has sent back the plan of amendments with some alterations which strike in my opinion at the most salutary articles." (Hunt's *Madison's Writings*, Vol. V, p. 421.)

Washington's ultimate espousal of the cause of absolute religious liberty in the Virginia struggle has been already noted. Deeply impressed by the results of the Virginia campaign of education, he undoubtedly favored the prohibition of religious tests in the Federal Constitutional Convention over which he presided, and approved at an early date of the adoption of a Federal bill of rights, including a religious liberty clause. Without his support Congress would not have approved of the first amendment. Soon after he became president almost every religious sect in the country, including many separate congregations, presented addresses of felicitation to him, to which he replied, and one of their purposes no doubt was to promote the cause of religious liberty by such public demonstrations. Among Washington's replies, all written around the end of 1789, several are of particular interest. Thus he wrote to the United Baptist churches of Virginia:

> If I could have entertained the slightest apprehension that the Constitution framed in the Convention, where I had the honor to

> preside, might possibly endanger the religious rights of any ecclesiastical society, certainly I should never have placed my signature to it; and if I could now conceive that the General Government might ever be so administered as to render the liberty of conscience insecure, I beg you will be persuaded that no one would be more zealous than myself to establish effectual barriers against the horrors of spiritual tyranny and every species of religious persecution. For you doubtless remember that I have often expressed my sentiments that every man conducting himself as a good citizen and being accountable to God alone for his religious opinion, ought to be protected in worshipping the Deity according to the dictates of his own conscience. (Morris' *Christian Life and Character of the Civil Institutions of the United States,* p. 451.)

Similarly, he wrote to the Quakers of Pennsylvania and other States:

> Government being, among other purposes, instituted to protect the persons and consciences of men from oppression, it certainly is the duty of rulers not only to abstain from it themselves, but according to their stations, to prevent it in others. The liberty enjoyed by the people of these States of worshipping Almighty God, agreeably to their consciences, is not only among the choicest of their *blessings,* but also of their *rights.* While men perform their social duties faithfully, they do all that society or the state can with propriety demand or expect and remain responsible to their Maker for the religion or modes of faith which they may prefer or profess. . . . I assure you very explicitly that in my opinion, the conscientious scruples of all men should be treated with great delicacy and tenderness; and it is my wish and desire that the laws may always be as extensively accommodated to them as a due regard to the protection and interests of the nation may justify and permit. (*Ibid.*, p. 459.)

To the Catholics he wrote:

> As mankind becomes more liberal, they will be more able to allow that those who conduct themselves as worthy members of the community are equally entitled to the protection of civil government. I hope ever to see America among the foremost nations in examples of justice and liberality. (*Ibid.*, p. 478.)

Particularly significant is his letter to the Jewish Congregation of Newport:

> The citizens of the United States of America have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy—a policy worthy of imitation. All possess alike liberty of conscience and immunities of citizenship. It is now no more that toleration is spoken of as if it was by the indulgence of one class of the people that another enjoyed the exercise

> of their inherent natural rights. For happily the Government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that those who live under its protection should demean themselves as good citizens in giving it on all occasions their effectual support. (*Ibid.*, p. 469.)

As far back as November 5, 1775, Washington as commander-in-chief had severely condemned a threatened anti-Catholic demonstration in the army, described by him as "that ridiculous and childish custom of burning the effigy of the Pope" (Ford's *Washington's Writings*, Vol. III, pp. 200-201), and some months before, the Continental Congress had approved of an able letter, drafted by John Dickinson, known as the "Letter to the Inhabitants of Quebec," reading as follows:

> These are the rights you are entitled to, and ought at this moment in perfection, to exercise. And what is offered to you by the late Act of Parliament in their place? *Liberty of Conscience in your religion? No. God gave it to you; and the temporal powers with which you have been and are connected, firmly stipulated for your enjoyment of it.* . . . Such is the precarious tenure of mere will, by which you hold your lives and religion. The Crown and its Ministers are empowered as far as they could be by Parliament, to establish even the Inquisition itself among you.
>
> *We are too well acquainted with the liberality of sentiment distinguishing your nation to imagine, that differences of religion will prejudice you against a hearty amity with us. You know that the transcendent nature of freedom elevates those who unite in her cause, above all such low-minded infirmities. The Swiss Cantons furnish a memorable proof of this truth. Their union is composed of Roman Catholic and Protestant States, living in the utmost concord and peace with one another, and thereby enabled, ever since they bravely vindicated their freedom, to defy and defeat every tyrant that has invaded them.*
>
> That Almighty God may incline your minds to approve our equitable and blessed measures, to add yourself to us, to put your fate . . . on the consolidated powers of North America . . . is the fervent prayer of us, your sincere and affectionate friends and fellow-subjects.[25]

The Vice President, John Adams, also took strong ground in favor of religious liberty, and undoubtedly used his influence to secure the adoption of the first amendment by the Senate, over which he presided. On many occasions, he expressed his views to that effect, though particularly vigorously is his letter to Mordecai M. Noah, dated July 31, 1818:

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[25] Quoted from *Journals of Congress*, Vol. I, pp. 108-117 in Humphrey's *Nationalism and Religion in America*, p. 418. Humphrey has a footnote on page 418 as follows: "This was the sole reference to the subject of religion until the Convention of 1787 embedded in the Federal Constitution the principle of full religious liberty" (Bancroft, Vol. VII, p. 159)."

> You have not extended your ideas of the right of private judgment and the liberty of conscience, both in religion and philosophy, farther than I do. Mine are limited only by morals and propriety. . . . I wish your nation may be admitted to all the privileges of citizens in every country of the world. This country has done much. I wish it may do more; and annul every narrow idea in religion, government and commerce. Let the wits joke; the philosophers sneer; what then? It has pleased the Providence of the "first cause," the universal cause, that Abraham should give religion, not only to Hebrews, but to Christians and Mohametans, the greatest part of the civilized world. (Noah's *Travels,* Appendix, p. XXVI.)

His distinguished cousin, Samuel Adams, was a much stricter Congregationalist than he, but he too showed strong attachment to the cause of religious toleration. As far back as 1774, when the first Continental Congress met, a resolution that it be opened with prayer was opposed by Jay and Rutledge on the ground that the numerous diverse sects there represented could scarcely be expected to unite in formal worship. Thereupon Samuel Adams got up and said that he was no bigot, and could hear a prayer from a gentleman of piety and virtue who was at the same time a friend to his country. He was a stranger in Philadelphia, but he had heard that Mr. Duche, an Episcopalian clergyman, deserved that character, and he suggested that he be asked to read prayers to Congress, which was accordingly done (Wells' *Samuel Adams*, Vol. II, pp. 221-224). A similar motion was made by Benjamin Franklin, in the midst of the sessions of the Federal Constitutional Convention, when agreement seemed impossible.

The Massachusetts convention ratified the Federal constitution only by the close vote of 187 yeas against 168 nays, and only after both Samuel Adams and John Hancock, its leading members, who had originally been opposed to ratification, agreed to the famous compromise by which ratification was ordered, but specific amendments strongly recommended. Both of them approved of the prohibition of a religious test for office, and this was particularly ably defended by Theophilus Parsons, later Chief Justice of Massachusetts (*Memoirs,* by his son, pp. 97-101), who also devised the famous compromise by which Samuel Adams' and John Hancock's support was secured (*Ibid*., pp. 65f.). Even previously Theophilus Parsons—who deserves to be included among the fathers of the republic—had drafted objections adopted by an important group to the proposed Massachusetts constitution of 1778, in the course of which it was said:

> The 34th article is exceptionable because the rights of conscience are not therein defined and ascertained; and further because the free exercise and enjoyment of religious profession and worship are there said to be *allowed* to all the Protestants in the State, when in fact, that free exercise and enjoyment is the natural and incontrollable

> right of every member of the State. (*Ibid.*, p. 50; compare p. 386.)

In Beveridge's *Life of John Marshall* (Vol. I, p. 222), with particular reference to Marshall's vote against Madison's motion for postponement of the religious assessment bill in the Virginia legislature, it is suggested that Marshall, though a Unitarian, took but "a languid interest in the religious struggle." The fact is overlooked, however, that he was one of the committee that subsequently, in 1788, drafted the religious rights amendment recommended by the Virginia convention which ratified the Federal Constitution. But his great service to this cause, as well as to all constitutional liberty, lies of course in his success in making paper bills of rights effective, in striking down unconstitutional legislation contravening the same. Even Madison did not realize what an important weapon the Federal Constitution had furnished in this respect, for he wrote to Jefferson on October 17, 1788, an interesting letter, which contained the following passage:

> My own opinion has always been in favor of a bill of rights, provided it be so framed as not to imply powers not meant to be included in the enumeration. At the same time, I have never thought the omission a material defect, nor been anxious to supply it even by subsequent amendment for any other reason than that it is anxiously desired by others. I have favored it because I supposed it might be of use and if properly executed, could not be of disservice. . . . There is great reason to fear that positive declaration of some of the most essential rights could not be obtained in the requisite latitude. I am sure that the rights of conscience in particular, if submitted to public definition, would be narrowed much more than they are likely ever to be by an assumed power. One of the objections in New England was that the Constitution by prohibiting religious tests, opened a door for Jews, Turks and infidels. . . . In Virginia I have seen the bill of rights violated in every instance where it has been opposed to a popular current. Notwithstanding the explicit provisions contained in that instrument for the rights of Conscience, it is well known that a religious establishment would have taken place in that State, if the Legislative majority had found, as they expected, a majority of the people in favor of the measure; and I am persuaded that if a majority of the people were now of one sect, the measure would still take place, and on narrower grounds than it was then proposed, notwithstanding the additional obstacle which the law has since created. Wherever the real power in a government lies, there is the danger of oppression. (Hunt's *Madison's Writings,* Vol. V, p. 271.)

It is interesting to observe that the U. S. Supreme Court recently (in *Gitlow* vs. *New York* 268 U. S. 652, at 666, 672) in dealing with a New York statute against advocacy of the overthrow of government, has expressly withdrawn some prior intimations to the effect that the fourteenth amendment created no restraints upon state action with respect to the subjects covered by the first amendment, liberty of conscience and of the press, and its holding in *Pierce* vs. *Society of the Sisters of the Holy Name,* 268 U. S. 510, (declaring an Oregon statute unconstitutional, forbidding instruction in private schools, including Catholic parochial schools, for children between eight and sixteen) strongly lends support to the view that states may not to-day, in view of the Federal Constitution, impair fundamental rights of conscience. In a large measure, therefore, one of the unanticipated results of the fourteenth amendment was to create a constitutional restraint upon state action, in violation of the rights of conscience, such as Madison planned in the defeated constitutional amendment of 1789. Strangely enough, the Supreme Court in two leading opinions, both written by Mr. Justice Brown, dealing with constitutional immunity from self-incrimination and with summary arrest of deserting seamen (*Brown* vs. *Walker* 161 U. S. 591, 600; *Robertson* vs. *Baldwin* 165 U. S. 275, 281), said that the first ten amendments were merely intended to embody guarantees and immunities inherited by the colonists from their English ancestors and subject to well recognized common law exceptions, which, of course, while quite correct as to the other clauses, is wholly incorrect as applied to the original and revolutionary pioneer guarantee of religious liberty, embraced in the first amendment, which the court did not have under consideration, and which had been so ably expounded by the court in the light of the Virginia struggle, in the Reynolds case.

Hamilton's services in connection with religious liberty are not as well recognized as those of his great rivals, Jefferson and Madison, though, as seen, he expressly favored a broader provision than mere prohibition of religious tests for office in the Federal constitutional convention, and without his approval, the first amendment could not have been adopted. Less well known is the fact that, in drawing the new charter for Columbia College after the Revolution, he expressly included ministers of the various religious denominations of New York City, including Rabbi Gershom Mendes Seixas among its trustees, to evince its non-sectarian character. President Butler has recently referred to the fact that the early minutes of the reorganized college show that Hamilton planned to make even the theological courses of the college non-sectarian, by opening various general theological courses to students of all denominations, and maintaining only certain special courses for students of different sects.

This naturally brings to mind Jefferson's services in founding the University of Virginia, largely in order to eliminate all sectarian influences in connection with public education. In his famous letter dated at Monticello, January 6, 1826, to Isaac Harby (reprinted in *A Selection from the Miscellaneous Writings of the late Isaac Harby*, p. 36), he wrote in this connection:

> I have thought it a cruel addition to the wrongs which that injured sect (the Jewish) have suffered, that their youth should be excluded from the instructions in science afforded to all others in our public seminaries, by imposing upon them a course of Theological Reading which their consciences do not permit them to pursue, and in the University lately established here, we have set the example of ceasing to violate the rights of conscience by any injunction on the different sects respecting their religion.

Eight years previously, in the course of a letter to Mordecai M. Noah, he wrote:

> Your sect, by its sufferings, has furnished a remarkable proof of the universal spirit of religious intolerance inherent in every sect, disclaimed by all while feeble and practiced by all when in power. Our laws have applied the only antidote to this vice, protecting our religious, as they do our civil, rights by putting all on an equal footing. But more remains to be done; for although we are free by the law, we are not so in practice; public opinion erects itself into an Inquisition, and exercises its office with as much fanaticism as fan flames of an auto da fé. The prejudice still scowling on your section of our religion, although the elder one, cannot be unfelt by yourselves; it is to be hoped that individual dispositions will at length mould themselves to the model of the law, and consider the moral basis on which all our religions rest as the rallying point which unites them in a common interest; while the peculiar dogmas branching from it are the exclusive concern of the respective sects embracing them, and no rightful subject of notice to any other; public opinion needs reformation on that point (Noah's *Travels*, App. XXV).

Cardinal Gibbons, in a paper contributed by him to the *North American Review* on "The Church and the Republic," and reprinted in his work *A Retrospect of Fifty Years*, well said:

> Most of the State constitutions, however, were not at first characterized by the same perfect liberty [as the Federal Constitution]. Seven of them debarred Catholics from office or citizenship, six expressly, one by requiring naturalized citizens to abjure any foreign ecclesiastical allegiance. Unitarians in one State, Jews and unbelievers in several, were likewise subjected to civil disabilities. But in the course of time all restrictions against adherents of any religion were swept away. The removal of these disabilities has always, I believe, been considered a triumph of the American spirit. American Catholics rejoice in our separation of Church and State, and I can conceive of no combination of circumstances likely to arise which should make a union desirable either to Church or State (pp. 217, 234).

The subject of the influence of the United States upon acceptance of the principles of religious liberty abroad falls outside the scope of this paper, and cannot be treated here without extending the present study unduly, but the temptation to outline it briefly cannot be resisted. How France followed America's example has already been indicated, and France was the pioneer in Europe. As late as 1840 separation of church and state was a distinctive American characteristic, as shown by an official letter sent when the Jews of Damascus were confronted with shocking, baseless "blood accusations"—a letter penned by Secretary of State Forsyth, at the direction of President Martin Van Buren, instructing the United States Minister at Constantinople to use his good offices on behalf of the unfortunate victims, in which it was said:

> The President is of the opinion that from no one can such generous offers proceed with so much propriety and effect as from the representative of a friendly power, whose institutions, political and civil, place upon the same footing the worshipers of God of every faith and form, acknowledging no distinction between the Mohammedan, the Jew and the Christian. Should you, in carrying out these instructions, find it necessary or proper to address yourself to any of the Turkish authorities, you will refer to this distinctive characteristic of our government as investing with a peculiar propriety and right, the interposition of your good offices in behalf of an oppressed and persecuted race, among whose kindred are found some of the most worthy and patriotic of our citizens (*Pub. American Jewish Historical Society*, No. 24, p. 4).

In at least two later instances, Fay and Peixotto were selected as American ministers abroad to devote almost all their activities to promoting religious liberty in Switzerland and Roumania respectively, and John A. Kasson as United States Minister to Austria first suggested the inclusion of universal religious liberty clauses in the treaties prepared at the Congress of Berlin, in 1878, and Bayard Taylor as our Minister to Germany strongly promoted the same cause.[26]

More recently, in our own day, the Hay Roumanian Note of 1902 was despatched with the same end in view, at Theodore Roosevelt's personal direction, secured through the efforts of Jacob H. Schiff, Oscar S. Straus, Simon Wolf and Lucius N. Littauer, though our intermediation was based on the fact that our country was deeply concerned in the matter, as the persecution resulted in an enforced and precipitated wholesale immigration of ill-equipped fugitives from religious persecution to our shores. A broader basis underlies President Roosevelt's transmittal of the Kishineff Massacre Protest to Russia the next year, which was based on the inhumanity of such religious persecutions, and was forwarded in the form of an inquiry whether the message—the full text of which was embodied in the inquiry—would be received, thus preventing its rejection unread. Nor should we overlook President Cleveland's vigorous message regarding the Keiley ministry to Austria, in which he declared that Austria's course in ostensibly refusing to receive that gentleman as our minister to that country because his wife was a Jewess

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[26] See Sol. M. Stroock's "Switzerland and American Jews," in *Pub. American Jewish Historical Society*, No. 11; Max J. Kohler and Simon Wolf's "Jewish Disabilities in the Balkan States—American Contributions toward Their Removal, with Particular Reference to the Congress of Berlin," *Ibid.*, No. 24; and Max J. Kohler's "Jewish Rights at International Congresses," in *American Jewish Year Book* for 1917-1918, and pamphlet reprint.

> could not be acquiesced in without violation of my oath of office and the precepts of the Constitution, since they necessarily involved a limitation in favor of a foreign government upon the right of selection by the Executive, and required such an application of a religious test as a qualification for office under the United States as would have resulted in the practical disfranchisement of a large class of our citizens and the abandonment of a vital principle of our Government (Richardson's *Messages of the Presidents,* Vol. VIII, pp. 325-326).

It was in this connection, with President Cleveland's approval, that Secretary Bayard had penned the immortal lines quoted early in this paper (674), and Mr. Bayard continued:

> His [Mr. Keiley's] presence near the foreign Government in question is objected to by its agents on the sole ground that his wedded wife is alleged to entertain a religious faith which is held by very many of the most honored and valued citizens of the United States. It is not believed by the President that a doctrine and practice so destructive of religious liberty and freedom of conscience, so devoid of catholicity and so opposed to the spirit of the age in which we live, can for a moment be accepted by the great family of civilized nations or be allowed to control their diplomatic intercourse. Certain it is, it will never, in my belief, be accepted by the people of the United States, nor by any administration which represents their sentiments. . . . Into the religious belief of its envoy, or that of any member of his family, neither this Government, nor any officer thereof as I have shown you, has any right or power to inquire, or to apply any test whatever, or to decide such question, and to do so would constitute an infraction of the express letter and an invasion of the pervading spirit of the supreme law of the land.

Still more significant and striking was the abrogation in 1911 of our treaty with Russia, particularly through the efforts of Louis Marshall and Jacob H. Schiff, because of Russia's continued refusal to honor our United States passport in the hands of Jews, contrary to our laws and principles, but by reason of an attempted justification on the score of her discriminatory attitude toward her own Jewish subjects.[27] Curiously enough, a youthful publicist criticized American Jewish activity in this movement a few years ago as ill-advised, but he overlooked the fact that the movement met with vehement public support, including that of such leaders of public opinion as Herbert Parsons and Woodrow Wilson, then governor of New Jersey, as well as of the country at large and its press. President Taft's hesitancy about the matter was due wholly to doubts as to the efficacy of the proposed course, at first, and he became a leader in the movement for international protection of racial and religious minorities. It is interesting to observe that long after the abrogation the *Memoirs* of Count Witte, Russia's prime minister, were published, and he stated frankly there (pp. 384f.) that Russia's attitude had driven the United States to that course.

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[27] See Simon Wolf's *The Presidents I Have Known*, pp. 292-322; *American Jewish Year Book* for 1909-1910, pp. 21-43; 1911-1912, pp. 19-128; Adler's *Jacob H. Schiff, His Life and Letters*, Vol. II, pp. 146-151; the *Memoirs* of Count Witte.

But the greatest progress in making the American principle of religious liberty a principle of international law was made at the Peace Conference of Paris, in 1919, and largely through the efforts of a group of American Jews, which included Louis Marshall, Julian W. Mack, Oscar S. Straus, Simon Wolf, Stephen S. Wise, Cyrus Adler, Jacob H. Schiff and Louis D. Brandeis, and so telling and forcible was their exposition of the question and their emphasis on the need of recognizing this important principle of international law, that the cause was vigorously espoused by President Wilson and Colonel House and their associates of the American Peace delegation, and David Hunter Miller and Manley O. Hudson of our legal advisory staff.[28] Other distinguished envoys, particularly Lloyd George (and Mr. Headlam-Morley and Lucien Wolf of his advisory staff), M. Clemenceau (and M. Berthelot of his advisory staff), and Signor di Martino of Italy and Mr. Adatci of Japan, were soon won over, and induced to lend Mr. Marshall valuable assistance in drafting effective minority protective clauses, protecting religious liberty and individual rights, regardless of creed. The result is that clauses closely analogous to our own American constitutional religious liberty clauses were placed in the treaties with Poland, Roumania, Czecho-Slovakia, Jugo-Slavia, the former Austro-Hungarian states, Turkey and various other countries. These made provisions guaranteeing freedom of worship and the protection of civil rights, regardless of race and creed, irrepealable by the countries involved, and put them under the protection of the League of Nations. They were expressly made "matters of international concern" and any state on the Council of the League could bring them up for action, and the offending state agreed to consent to have alleged infraction of them laid before the World Court. In fact, that high court has given them full weight and effect already. As Mr. Marshall recently declared, one of the most distinguished statesmen of Europe, who particularly occupies himself with these conditions, has stated that nothing but these minority protective clauses is saving thirty-five million Europeans to-day from destruction. Of course, only a fraction of these unfortunates are Jews. The fact that occasional violations of these rights still occur in these days of unrest, and pending adjustment to the new order of things, of course does not indicate that they are ineffective.

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[28] See my paper, "Religious Liberty Guarantees at the Peace Conference," in the *American Law Review*, Nov.-Dec., 1920; Simon Wolf's *Selected Addresses and Papers*, pp. 312-314, 342; Adler's *Jacob H. Schiff, His Life and Letters*, Vol. II, pp. 151-161, 208, 304-308; Temperley's *History of the Peace Conference of Paris*, Vol. V, pp. 112-365, 432-470; *Proceedings of Adjourned Session of American Jewish Congress, Including Report of Commission to Peace Conference, May 30, 1920.*

But perhaps nowhere, not even in the famous Richard M. Johnson "U. S. Sunday Mail" reports in the United States Senate and the House of Representatives of 1829 and 1830,[29] was the American principle of separation of church and state more clearly expressed than in our early so-called "Joel Barlow Treaty with Tripoli," negotiated on November 4, 1796, during Washington's administration, and ratified by the Senate June 7, 1797, which provided:

> As the government of the United States is in no sense founded on the Christian religion; and it has itself no enmity against the laws, religion or tranquillity of Mussulmans . . . it is declared by the parties that no pretext arising from religious opinion shall ever produce an interruption of harmony existing between the two countries (Malloy's *Treaties of the United States*, Vol. II, p. 1786).

THE ABROGATION OF THE TREATY OF 1832 BETWEEN THE UNITED STATES AND RUSSIA AND THE INTERNATIONAL PROTECTION OF RELIGIOUS MINORITIES

(INCLUDING PAPERS BY THE LATE LOUIS MARSHALL) [1]

BY MAX J. KOHLER, A.M., LL.B., D.H.L.

I

THE RUSSIAN TREATY AND ITS ABROGATION

A. INTRODUCTORY

THE abrogation of this treaty in 1911 was a matter of great moment in the history of religious liberty, and furnished spectacular proof of the fidelity of the United States to the principles of such liberty. It also exerted potent influence, as will be seen presently, upon the emancipation of the Jews of Russia, effected as one of the first enactments of the Russian Revolution in 1917. Two years later the peace treaties abolished religious discrimination, on paper at least, for the rest of persecuting Europe.

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[29] Reprinted almost in full in "Selected Addresses and Papers of Simon Wolf," pp. 155ff.

[1] As stated in the Editor's Preface, Mr. Marshall had agreed to write a chapter on this subject for this work, but was prevented by his sudden death. Instead, two notable addresses of his are reprinted in this chapter, with supplementary matter added by the editor. He has the additional advantage of having heard Mr. Marshall verbally describe the various incidents involved soon after their occurrence, in the course of many years of close intimacy with him.

The relevant text of the Russian Treaty of 1832 (Malloy's *Treaties of the United States*, Vol. II, p. 1514) is quoted verbatim hereinafter in Mr. Marshall's memorable address of January 19, 1911, before the Union of American Hebrew Congregations. It was unquestionably the intention of the two contracting countries, as evidenced by the clear language of Article I, to confer reciprocal rights of residence upon their respective inhabitants, regardless of race and creed. Russia's refusal to admit into her land American Jews, as also Protestant ministers and Roman Catholic priests, holding American passports, was a clear violation of the treaty.[2] The circumstance that the concluding sentence of Article X qualifies the right of American and Russian citizens and subjects to dispose of their property within the jurisdiction of the other country by testament or otherwise, so as not to "derogate" from the Emperor of Russia's "laws to prevent the emigration of his subjects" in no way modifies that conclusion, even if that phrase could be thought to recognize the doctrine of perpetual allegiance, and to negative our American doctrine of inalienable right of expatriation. Moreover, the treaty confers the right of residence on "inhabitants," and not merely on "citizens," of the respective countries. Article XI, furthermore, expressly granted to the United States the rights of the most favored nation, and thus conferred upon her citizens the right of residence expressly granted in terms to German, Austrian and French Jews by Russia's treaties with those countries, as amended in 1904, 1905 and 1906.[3] Strangely enough, no answer to the argument afforded by this adoption of the clauses of these later treaties appears to have been even attempted by Russia's defenders in the whole agitation, though Russia after some time had put a different construction from ours on the American treaty proper, so as to read into it her own narrow, discriminatory, domestic laws. Of course, in the presence of express treaty provisions, the question is irrelevant whether, under general principles of international law, a nation may without violating treaty faith, establish racial or religious discriminations against aliens. This fact disposes at once of the supposed analogy of American and British colonial enactments against the Chinese (which really had an economic and not a religious basis); for until our anti-Chinese enactments were authorized by China by treaty, our courts declared anti-Chinese state laws illegal, and Presidents Hayes and Arthur vetoed our original Chinese exclusion laws, because inconsistent with treaty, though the violation of a treaty by *later* inconsistent laws creates merely international obligations and grievances.

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[2] We are, however, not left now to mere surmise as to the intention of the contracting countries in this respect. The publication of John Bassett Moore's edition of the *Works of James Buchanan* (Vol. II, pp. 194-317), and an examination of the numerous contemporary documents of 1832 concerning the negotiation of this treaty in the Russian archives, made accessible by the Russian Revolution, leave it clear beyond peradventure that neither country had the remotest intention of making Russia's domestic anti-Jewish laws part of this international agreement. The treaty was drafted by James Buchanan, representing the United States, and Count Nesselrode, the Russian chancellor, and of course the former did not have the remotest intention to discriminate, and could not legally under our constitution have discriminated, between American citizens according to creed, granting differing privileges to Christians than to Jews. Nor had Nesselrode any such intention, and he was in fact, according to a letter written by Grand Duke Nicholas Mikhailovich to the Czar Nicholas II "half German, half Jew" (Golder's *Documents of Russian History*, p. 66). After some earlier efforts at negotiating a commercial treaty between the two countries had failed for fiscal reasons, the two diplomats, with recently negotiated treaties between the United States and Prussia, Austria and Sweden before them, took the provision of the Prussian-American Treaty of 1828 (Malloy's *Treaties*, Vol. II, p. 1496), and copied the material Article I verbatim on the spur of the moment, for insertion into the Russian treaty, which was executed soon afterwards (*Works of James Buchanan*, Vol. II, pp. 268ff., 271ff., 272, 281, 283, 286, 289, 317). As a matter of fact, all three of the other European countries named had in force their own restrictive laws against the Jews at the time, but none of them ever even dreamed of contending—nor did Russia herself until decades later—that their treaties established discriminatory rights among holders of American passports, depending upon their religious faith. In this connection I have permission to quote Hon. John Bassett Moore, author of our most authoritative work on American foreign relations, who knows more as to our foreign affairs than any other man who ever lived. He authorizes my saying that to the best of his recollection, our diplomatic correspondence does not disclose any suggestion even on the part of Prussia, Austria or Sweden that the clauses of their treaties with us—corresponding to Article I of the Russian-American treaty of 1832—ought to be construed as establishing classes of American citizens, privileged or not privileged to enjoy treaty rights under these treaties, depending on their race or creed.

For a number of years after ratification of the treaty with the United States in 1832, Russia raised no question as to the right of admission into Russia of Jewish holders of American passports, under the treaty; but about 1879 she began her course of refusing the right of residence to American Jews, and she persisted in this course from that time on, with occasional exceptions of specially favored individuals. Our secretaries of state uniformly sought to induce her to desist from this discriminatory attitude, and protested against her course as constituting a violation of our treaty, particularly Evarts, Hay, Blaine, Frelinghuysen, Bayard, Gresham, Wharton, Adee, Olney, Sherman, Root and Knox. The same is true of our diplomatic representatives in Russia during this whole period, including Hoffman, Hunt, John W. Foster, Alphonso Taft, Lothrop, Charles Emory Smith, Andrew D. White, Breckinridge, Tower, McCormick, von Meyer, Rockhill and Guild. Substantially the whole correspondence, as contained in our published *Foreign Relations*, was collated for the House Committee on Foreign Affairs in connection with the abrogation resolution of 1911 and published in the *Hearing* above referred to,[4] but space does not permit even a detailed summary here.

Under date of June 22, 1880, Secretary Evarts instructed United States Minister Foster (*Hearing*, p. 109) that in

> the presence of this fact, that an American Jew has been ordered to leave Russia on no other ground than that he is the professor of a particular creed or the holder of certain religious views, it becomes the duty of the Government of the United States, which impartially seeks to protect all of its citizens of whatever origin or faith,

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[3] See the text of those treaties in *Termination of the Treaty of 1832 between the United States and Russia—Hearing before the Committee on Foreign Affairs of the House of Representatives*, Monday, December 11, 1911; revised edition, pp. 259-261, hereafter called *Hearing*.

[4] See pp. 106-238; see also *American Jewish Year Book*, 1904-1905, pp. 283-305; Moore's *International Law Digest*, Vol. IV, pp. 111-129; Vol. VI, pp. 351-359.

> solemnly, but with respect to the Government of his Majesty, to protest.

Mr. Evarts even went further, and directed the question to be submitted to the Russian government

> whether, in the event Mr. Pinkos should be finally expelled from Russia, or be otherwise interrupted in his peaceful occupations, on the sole ground that his religious views are of one kind rather than another, he would not be justly entitled to make reclamation for the damage and loss to which he might thereby be subjected.

Acting Secretary Hay wrote, on October 22, 1880 (*Hearing*, p. 115), in approving John W. Foster's vigorous course in the matter:

> It is hoped that you will press your representations to the successful establishment of the principle of religious toleration for our citizens peacefully residing or traveling abroad, which we as a nation have such a deep interest in maintaining.

Minister Foster reported that he had told M. de Giers, head of the Russian Foreign Office, in December, 1880 (*Hearing*, pp. 116, 117):

> My Government objected to the discrimination on account of religion or race, which made the intervention of the legation necessary. It claimed for its citizens of the Jewish faith the same rights and protection extended to other American citizens, and insisted that there should be no distinction in applying the treaty guaranty of reciprocal liberty of commercial intercourse. . . . In the course of the conversation, I stated that while the object of the interview was to obtain proper recognition of the rights of American Jews, my Government took a great interest in the amelioration of the condition of the Jewish race in other nations, and I was satisfied that it would be highly gratified at the statement of the minister that a commission was now considering the question of the modification in a liberal sense of the Russian laws regarding the Jews. The experience of the United States has amply shown the wisdom of removing all discriminations against them in the laws, and of placing their race upon an equal footing with all other citizens.

On July 29, 1881, Secretary of State James G. Blaine sent a communication to Mr. Foster (*Hearing*, pp. 129-133) which has been well described by Dr. Cyrus Adler in his book *Jews in the Diplomatic Correspondence of the United States* (p. 87) as the "classical dispatch on the subject"; in the course of it, Mr. Blaine wrote:

> It must not be forgotten that this issue of the banishment of our citizens from a friendly territory by reason of their alleged religion, is a new one in our international relations. From the time when the treaty of 1832 was signed, down to within a very recent period, there has been nothing in our relations with Russia to lead to a supposition

that our flag did not carry with it equal protection to every American within the dominions of the Empire. . . . Happily, the spirit of progress is of higher authority than the letter of outworn laws, and statutory enactments are not so inelastic, but that they relax and change with the general advancement of peoples in the path of tolerance. . . . It would be, in the judgment of this Government, absolutely inadmissible that a domestic law restraining native Hebrews from residence in certain parts of the Empire, might operate to hinder an American citizen, whether alleged or known to profess the Hebrew faith, from disposing of his property, or taking possession thereof for himself (subject only to the laws of alien inheritance) or being heard in person by the courts. The case would clearly be one in which the obligation of a treaty is supreme, and where the local law must yield. These questions of the conflict of local law and international treaty stipulations are among the most common which have engaged the attention of publicists, and it is their concurrent judgment that when a treaty creates a privilege for aliens in express terms, it cannot be limited by the operations of domestic law without a serious breach of the good faith which governs the intercourse of nations. So long as such a conventional engagement in favor of the citizens in another State exists, the law governing natives in like cases is manifestly inapplicable.

I need hardly enlarge on the point that the Government of the United States concludes its treaties with foreign States for the equal protection of all classes of American citizens. It can make absolutely no discrimination between them, whatever be their origin or creed. So that they abide by the laws at home or abroad, it must give them due protection and expect like protection for them. . . . I leave out of consideration in the present instruction the question whether the citizens or subjects of other nations are more or less favored than our own in this regard. I have not, however, failed to notice the statement made to you by M. de Giers in one of your reported conversations with him, that German and Austrian Jews are subjected to the proscriptions in question, and the implication therefrom that if the Governments of Germany and Austria do not complain, there is no reason why we should. It is not for me to examine or conjecture the reciprocal motives of policy or of international convention which may govern in these instances. . . . The personal guarantees of the Anglo-Russian treaty of January 12, 1859, in its eleventh, twelfth and thirteenth articles are more particular than in our own treaty, and were presumably, like our own stipulations, framed with the intent of securing impartial rights and protection in Russia. I am perfectly willing to rest my argument on the moral weight of our treaty of 1832, although of course, not averse to availing myself of any support which may come from any other quarter to fortify what we conceive to have been our clear purpose in executing

> that instrument. And under no circumstances would I in the name of this Government be willing to accept a less measure of impartial privilege for a citizen of the United States visiting or sojourning in Russian territory than is assured to aliens in the like case by any stipulation with or usage toward any other nation on the part of Russia. . . . You can further advise him that we can make no treaty with Russia nor accept any construction of our existing treaty which shall discriminate against any class of American citizens on account of their religious faith.

Very recently, unpublished instructions issued by Secretary Blaine have come to light which show that he even went further, and sought, first through Minister Foster, then—when this proved futile—on November 22, 1881, through James Russell Lowell, our minister to England, to secure international action to ameliorate the condition of the Jews in Russia, native and foreign. He directed Lowell to

> bring the subject before the formal consideration of the British Government, in a firm belief that community of interests will lead to common action. He felt that it would be a terrible thing to behold a return of the Ghetto of the Middle Ages, and hoped to initiate a movement which might also include other powers and which would influence Russia to ameliorate the condition of the Jews.[5]

Nothing, however, came of this project, chiefly for reasons of policy properly described by Lucien Wolf in his *Notes on the Diplomatic History of the Jewish Question* (1919) as "restraints of a selfish and calculating diplomacy" by which the United States "has been less affected . . . than the European Powers," showing on many occasions "a really noble example of the purest altruism in international politics" (p. 5).

In the Blaine note of July 29, 1881, above quoted, he expressly declined to follow England's lead in the Lewisohn case, that country having finally acquiesced in Russia's construction of her treaty as assimilating the rights of alien Jews in Russia to those of her native Jews, and England's position was officially stated in 1881 by Earl Granville (*Ibid.*, pp. 80-82), and reiterated January 29, 1891, and October 1, 1912 (*Ibid.*, pp. 69, 82-83). We know little of efforts being exerted by other European countries to protect the rights of their Jewish subjects visiting Russia, but there must have been such activity, for, strangely enough, an amendatory treaty, as seen above, was negotiated between Russia and Germany on July 23 (15), 1904, and ratified in February, 1905 (*Reichsgesetzblatt*, 1905, p. 35), making the treaty benefits in terms applicable to "German commercial travelers of the Hebrew faith," and at no higher rate. This clause seems to have been inserted on petition of German Chambers of Commerce, interested by the German Jewish "Central Verein." [6] Austria secured a similar treaty, expressly covering Jewish commercial travelers, on February 2 (15), 1906, and France one on September 16 (29), 1905, which was still more comprehensive and, while it did not in terms mention the Jews, did provide that "no distinction shall be made by reason of the religious affiliation of the said merchants, manufacturers, traders or commercial travelers." As to those countries too, however, Russia continued her anti-Jewish discrimination, in reliance on her domestic laws, except on behalf of an occasional favorite, and her course was vigorously assailed in the French Chamber of Deputies on December 27, 1909, as violative of treaty, in an interesting interpellation in which numerous precedents were cited, showing that France would not countenance a discrimination on the score of religion between her citizens.[7] Russia simply and baldly disregarded all her treaty obligations on the subject. It seems all the more strange, however, that England should have reiterated her stand on October 1, 1912, in favor of Russia's construction, for her treaty of 1859, as well as our own, contained a "most favored nation clause," under which her Jewish subjects were clearly entitled to the benefits of the express clauses in favor of Jews in the amendatory German, Austrian and French treaties of 1904, 1905 and 1906, even if one can regard as arguable her construction of her own treaty proper. It is no doubt true that for reasons of policy Europe was not willing to go far in engaging in controversies with Russia on behalf of her Jewish subjects, and this was clearly pointed out by Senator Lodge in the United States Senate in 1911, while supporting the resolution to confirm our termination of our treaty with Russia, when he said (*Congressional Record*, Vol. XLVIII, p. 480):

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[5] Alice F. Tyler, *Foreign Policy of James G. Blaine* (1927), p. 276; *American Secretaries of State and their Diplomacy*, edited by Bemis, Vol. VII (1928), p. 296, on Blaine by J. B. Lockey. A copy of this MS. dispatch is in possession of the editor, as also of Minister Lowell's answer.

> We give this notice because we decline longer to continue a treaty by which we seem to recognize a violation of those principles of religious liberty so dear to every American. We object longer to maintain a treaty by which we seem to recognize distinctions of race or creed. . . . Moreover, we are doing what, in our judgment, no other country would do in behalf of those great principles, violated in the persons of a large and important and valuable body of our citizenship. We are prepared to make sacrifices of a material and commercial kind which may very possibly be serious.

To return, however, to our diplomatic correspondence with Russia on the subject. Little in the way of new argument was added to Mr. Blaine's able note of July 29, 1881, in the numerous communications to Russia by our subsequent secretaries of state and ministers at St. Petersburg. An exception should be made, however, of diplomatic notes penned by Acting Secretary Wm. F. Wharton, who seems first to have pointed out that

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[6] *Allgemeine Zeitung des Judentums*, Vol. LXIX, pp. 73-74 (February 17, 1905).

[7] *Journal Officiel*, December 28, 1909; *Hearing*, pp. 201-206; *American Jewish Year Book*, 1911-1912, pp. 66-76.

Russia's course involved an unconstitutional religious inquisition by her diplomatic officers on our own shores, a point later elaborated upon. He wrote to Minister Andrew D. White, under date of February 28, 1893 (*Hearing*, p. 167):

> It is not constitutionally within the power of this Government or of any of its authorities to apply a religious test in qualification of equal rights of all citizens of the United States; and it is therefore impossible to acquiesce in the application of such a test, within the jurisdiction of the United States, by agents of a foreign power, to the impairment of the rights of any American citizen or in derogation of the certificate of this Government to the fact of such citizenship. . . . His Majesty's Government, however, surely cannot expect the United States to acquiesce in the assumption of a religious inquisitorial function within our own borders by a foreign agency in a manner so repugnant to the national sense.

Russia answered by asserting that the discrimination was racial, not religious, as if such change of name could alter the fact, though she incidentally ignored the provision in her "code of persecution"—to borrow Senator Rayner's phrase—under which these disabilities became inapplicable to Jews who became converts to the Greek Catholic church, as also her different treatment of Karaite Jews.

Repeatedly Congress passed resolutions that our diplomatic officers use their best efforts to stop this discrimination, but all in vain, though in communicating one of these Secretary Hay, under date of July 1, 1904 (*Hearing*, p. 226), pointed out that "in no other country in the world is a class discrimination applied to our visiting citizens." Frequently Russia answered that our representations would be placed before a Russian commission engaged in revising her code of laws regarding the Jews; but no relief was experienced from such commission reports, whether favorable or unfavorable. The matter of Russia's treatment of Jews, native or foreign, was also repeatedly called by different presidents in public communications to the attention of Congress. President Cleveland took up the matter at some length in his message to Congress of December 2, 1895 (Richardson's *Messages of the Presidents*, VIII, 6067), and previously Presidents Arthur and Harrison had dealt with Russian maltreatment of the Jews in similar communications (*Ibid.*, VII, 4714; VIII, 5518, 5623). When the horrible Kishineff massacre of Jews occurred in 1903, President Roosevelt, knowing that the Russian authorities would not receive American protests, resorted to the device of embodying the petition to the Czar in a cabled official inquiry whether Russia would receive it, in order to give wide publicity to the same, but Russia even refused proffered American pecuniary aid to the sufferers.[8] President Roosevelt went further, and wrote a personal letter to the Czar, which he handed to

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[8] Simon Wolf, *The Presidents I Have Known*, pp. 187-218; Oscar S. Straus, *Under Four Administrations*, pp. 170-173.

Count Witte in September, 1905, when the latter was chief envoy of Russia at the Portsmouth Peace Conference at the close of the Russo-Japanese War (*Hearing*, p. 313). Witte transmitted it, and a special commission was appointed to study the matter, as stated in his *Memoirs* (pp. 174-175, 385; compare Straus, *op. cit.*, p. 191), which ultimately reported in favor of abolishing the restrictions, but nothing further was done in the matter. Count Witte's *Memoirs* also show that Nicholas I and Alexander II favored gradual abolition of all Jewish disabilities in Russia, but Alexander III and Nicholas II were personally averse to such a course, and the latter was even privy to anti-Jewish pogroms, and during his reign pogroms were actually promoted by secret bureaus of the police department itself. Under such circumstances the condition of the Jews in Russia became constantly worse.[9] On the occasion of Witte's visit to America in 1905, he received a delegation of prominent American Jews, consisting of Jacob H. Schiff, Oscar S. Straus, Isaac N. Seligman, Adolf Kraus and Adolph Lewisohn, who urged upon him the emancipation of the Jews of Russia from their horrible disabilities; he agreed that conditions were unjust, but said changes would have to be gradual, from which latter view his Jewish conferees of course dissented. He recommended amelioration to his government, according to his *Memoirs*, but without success.[10]

Witte had occasion to discover how detrimental Russian treatment of the Jews was, in connection with efforts to finance Russia, as opposition of Jewish bankers in Europe and the United States prevented the floating of Russian governmental loans. As regards the United States, Mr. Schiff himself was able to write to Lord Rothschild in 1904, "I pride myself that all the efforts which at various times during the past four or five years have been made by Russia to gain the favor of the American markets for its loans, I have been able to bring to nought." [11] On the other hand, without his espousal of the cause of Japan in the Russo-Japanese War that country could scarcely have won the war, even according to Takahashi, her financial commissioner, envoy and future premier.[12]

[9] Their shocking legal disabilities were most accurately described in a scholarly booklet edited by Lucien Wolf entitled *The Legal Sufferings of the Jews in Russia*, with an introduction by Prof. A. V. Dicey (1912), and previously summaries of Russian anti-Jewish laws were made on behalf of our government by John W. Foster in 1881 (*Hearing*, pp. 126-128); by Andrew D. White in 1893 (*Ibid.*, pp. 169-176); by Commissioners John B. Weber and Walter Kempster in *Letter from the Secretary of the Treasury Transmitting a Report of the Commissioners of Immigration upon the Causes Which Incite Immigration to the United States* (House Exec. Doc. 235 of 52 Cong., 1st Session; 2 vols., 1892), Vol. I, pp. 149-176; and Vol. IV of the U. S. Immigration Commission Reports, entitled *Emigration Conditions in Europe* (1911), pp. 279-350. The most careful study of the pogroms is to be found in *Judenpogrome in Russland, herausgegeben von dem Zionistischen Hilfsfonds in London*, 2 vols., 1910. See also *Report on Jewish Pogroms by the Kieff Pogrom Relief Commission*, controlled by the Russian Red Cross Asso. (1926).

[10] See, besides Witte's *Memoirs* (pp. 162-164), Straus, *op. cit.*, pp. 109-190; Adolf Kraus, *Reminiscences and Comments*, pp. 156-172.

[11] Adler's *Jacob H. Schiff: His Life and Letters*, Vol. I, p. 122.

[12] Adler, *op. cit.*, Vol. I, pp. 217-218, 227, 230.

There was no one more emphatic as to the importance of preventing Russia from continuing to dishonor the American passport than was Jacob H. Schiff, not merely because of such grafting of Russian intolerance on American life, but because he felt throughout that with the fall of this American discrimination, Russia's whole anti-Jewish domestic system would fall too. As he wrote to Adolph S. Ochs: "The moment Russia is compelled to live up to its treaties, and admit the foreign Jew into its dominion upon a basis of equality with other citizens of foreign countries, the Russian Government will not be able to maintain its pale of settlement against its own Jews."[13] Accordingly, the American Jewish Committee, of which Mr. Schiff, Louis Marshall and Judge Mayer Sulzberger were leading members from its organization in 1906, bent its activities, from 1908 on, to having our treaty with Russia abrogated if Russia would not stop her discrimination against American Jews. These activities at first took the form of correspondence, conducted by Judge Sulzberger as president (*Hearing*, pp. 243f.), and then of a personal conference with President Taft (*Ibid*., pp. 254-255). Under these conditions, and as it was becoming more and more apparent that Russia was endeavoring to carry out the policy toward the Jews supposed to have been laid down for her by Pobyedanotzev, Chief Procurator of the Holy Synod, at the beginning of the reign of Alexander III, viz. to kill off one-third of her Jews, drive another third into exile, and drive the remaining third into the bosom of the Greek Catholic church, Louis Marshall delivered his memorable address before the Union of American Hebrew Congregations on January 19, 1911, as follows:

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ADDRESS OF LOUIS MARSHALL ON "RUSSIA AND THE AMERICAN PASSPORT," BEFORE THE UNION OF AMERICAN HEBREW CONGREGATIONS IN NEW YORK, JANUARY 19, 1911

THE character of a nation is the reflex of the character of its citizens. If they are virtuous, virile, and self-respecting, the nation will of necessity possess the same qualities. If they have no pride in the honor and dignity of their citizenship, it inevitably follows that the national sense of honor is lacking, or falls below the ideal standard which should prevail. Whenever the citizens of a country as a mass fail to thrill in response to great achievements, or to resent a national insult, it must be due either to lack of information or to a want of that spirit by which great commonwealths have been created and preserved. Rome became a world power when, with conscious pride, its sons gloried in the declaration, "*civis Romanus sum*." It fell when the members of the State ceased to respond to that magic phrase.

American citizenship has hitherto been regarded as a priceless treasure. Men have gladly given for it their lives and all their material possessions.

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[13] Adler, *op. cit.*, Vol. II, pp. 151-152.

It has meant to them life, liberty, and the pursuit of happiness. It has been to them a badge of honor and distinction, and the richest guerdon of all their hopes and aspirations. It has peopled the wilderness and lighted the torch of progress and civilization. It has challenged universal respect, and has gained for itself the good will of well nigh all the peoples of the earth.

And yet there rests a stain on the honor of our nation and on the integrity of American citizenship; for the passport issued by the State Department of the United States, bearing the great seal of our country, and which vouches for the citizenship of him to whom it is issued, is dishonored, rejected, and arbitrarily disregarded by the Russian government whenever the citizen by whom it is presented happens to be a Jew. It matters not if he be able to trace his ancestry to those who landed with Columbus, to those who were among the settlers who came to New York in 1655, to those who fought in the War for Independence. It matters not that none of their kith or kin ever was a subject of Russia. All are denied the privilege of entering its domain, though panoplied with the armor and the shield of American citizenship.

For more than thirty years this has been the declared policy of the Russian government. Its discrimination against our citizens has been persistently and constantly avowed and acted upon. Men of every class have suffered the same ignominy and contumely. No man within the hearing of my voice who professes to be a Jew, however eloquent in true Americanism his life has been, can venture within the walls which Russia has erected against the outside world, even though accredited by a passport from our government, without having his credentials figuratively torn into shreds and cast defiantly into his face.

As a Jew he might look down upon his persecutors with pity and contempt, and suffer in silence as his ancestors did for centuries. But he is now more than a Jew—he is also an American citizen, and the hand that smites him inflicts a stain on his citizenship. It is not the Jew who is insulted; it is the American people. And the finding of a proper remedy against this degradation is not a Jewish, but an American question. The discussion of it has no proper part in the proceedings of this convention, except for the purpose of calling to the attention of the American people the facts which cannot have been sufficiently impressed upon their minds, else they would have long since clamored for redress.

What has been apparently overlooked, or at least has not been fully appreciated, is the prime consideration that, ever since 1832, Russia has been under treaty obligation to accord to all of our citizens, without distinction, the liberty to sojourn and reside in all parts of her territory and to guarantee to them security and protection. The first article of this treaty reads thus:

> There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabi-

> tants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy, to that effect, the same security and protection as natives of the country where they reside, on condition of their submitting to the laws and ordinances there prevalent, and particularly to the regulations in force concerning commerce.

On the very face of this article are written the two important underlying theories of every treaty, that it evidences a contractual relation, a compact between the nations entering into it, and that the obligations and rights created by it are reciprocal. The two nations are spoken of as "the high contracting parties," the liberty of commerce and navigation is referred to as "reciprocal," and the inhabitants of the several states are "mutually" to have the liberties which are defined in unequivocal and unambiguous terms.

As was said by Mr. Justice Miller in the Head Money Cases (112 U. S. 598): "A treaty is primarily a compact between independent nations. It depends for the enforcement of its provisions on the interest and the honor of the governments which are parties to it."

In its construction the same rules which govern other compacts properly apply (*United States* v. *Reynes*, 9 How. 127). There is no rule of interpretation applicable to treaties or to private contracts which would authorize either of the parties to make exceptions by construction, where the parties have not thought proper to make them. (*Society for Propagation of Gospel* v. *New Haven*, 8 Wheat. 464, 488, 489; *Rhode Island* v. *Massachusetts*, 12 Pet. 722).

As indicative of the accepted rule of interpretation of treaties, the language of Mr. Justice Field in *Geofroy* v. *Riggs* (133 U. S. 271) is significant:

> It is a general principle of construction with respect to treaties that they shall be liberally construed, so as to carry out the apparent intention of the parties to secure equality and reciprocity between them. As they are contracts between independent nations, in their construction, words are to be taken in their ordinary meaning, as understood in the public law of nations, and not in any artificial or special sense impressed upon them by local law, unless such restricted sense is clearly intended. And it has been held by this court that where a treaty admits of two constructions, one restrictive of rights that may be claimed under it and the other favorable to them, the latter is to be preferred.

There is no exception, express or implied, in the first or any other article of the treaty of 1832. Its terms are of universal application. They include, not some, but all of the inhabitants of the high contracting parties. They give the liberty to sojourn and reside within the territories of the respective nations, not to some, but to all of their citizens. There is no distinction of race or color, creed or sex. No discrimination is contemplated or permitted. All Russians are to be admitted here. All Americans are to be admitted there.

If it were suggested by our government that no Russian subject who is a resident of St. Petersburg or of Moscow, or a member of the Greek Catholic church, should be accorded the rights and privileges secured by this treaty, we would be regarded as guilty of a gross violation of its letter and its spirit. If Russia should declare that no citizens of the United States residing west of the Mississippi or south of the Ohio should receive the benefits of this treaty, not only the South and West, but our entire country would stand aghast at the dishonor inflicted on the entire nation. If Russia should announce that it would not honor the passport of the United States when held by an Episcopalian or a Presbyterian, a Methodist, or a Roman Catholic, our country would not look upon this breach of treaty obligation as a mere insult to the Episcopalians or the Presbyterians, the Methodists or the Roman Catholics of this country, but would justly treat it as a blow inflicted upon every man who holds dear the title of American citizen.

Though this proposition is so plain that discussion and illustration are alike unnecessary, Russia has persisted in the practice of requiring its consuls within the jurisdiction of the United States to interrogate American citizens as to their race and religious faith, and upon ascertainment thereof to deny to Jews authentication of passports or legal documents for use in Russia.

The existence of this practice was denounced by President Cleveland in the very words which have just been used, in his annual message to Congress in 1895; yet, in spite of this protest, this practice has continued ever since, and not only Russian consuls, but Russian ambassadors have refused to visé passports after ascertaining, as a result of inquiry, that the bearer, though an American citizen, is also a Jew.

The Russian government has thus broken its compact, flouted its obligations, and ignored a series of continued protests voiced by every President of the United States since the administration of President Hayes.

In the meantime the United States has sacredly observed the obligation of this treaty. Its highest court has, at the instance of the Russian government, enforced it most drastically and under conditions when, by strict construction, Russia might well have been denied that which it demanded as of right, under the terms of this very treaty whose obligations it has thus deliberately disregarded. It will be instructive by way of contrast to consider the facts and the decision in *Tucker* vs. *Alexandroff* (183 U. S. 424). Alexandroff was a conscript in the Russian naval service. He was assigned to the duties of an assistant physician. In 1899 he was detailed, with fifty-three others, to Philadelphia, to take possession of and man the cruiser Variag, then under construction by Cramp & Sons under a contract with the Russian government. While the vessel was still under construction, and before its acceptance by the Russian government, Alexandroff deserted, went to New York, where he renounced his allegiance to the Czar of Russia, and declared his intention to become a citizen of the United States. At the instance of the Russian vice-consul, Alexandroff was arrested on the charge of desertion, in accordance with the terms of Article IX of the treaty of 1832. This provided that the consuls, vice-consuls, and commercial agents of the two contracting parties

> are authorized to require the assistance of the local authorities, for the search, arrest, detention, and imprisonment of the deserters from the ships of war and merchant vessels of their country. . . . Such deserters, when arrested, shall be placed at the disposal of the said consuls, vice-consuls, or commercial agents, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be detained until the time when they shall be restored to the vessels to which they belonged, or sent back to their own country by a vessel of the same nation or any other vessel whatsoever.

It was contended on behalf of Alexandroff that when he arrived at Philadelphia the cruiser was not a ship, that at the time of his desertion she had not been accepted by the Russian government, had neither equipment nor armament, had not received on board her crew, nor had she been commissioned for active service, and was not therefore a ship of war.

Notwithstanding the facts upon which stress was thus laid, the Supreme Court held that on a liberal interpretation of the treaty the Variag was a ship of war, and Alexandroff, having been detailed to her service, was, from the time she became a ship, a part of her crew. Alexandroff was therefore surrendered to the Russian government, without a quibble, without an effort to do violence to the language of the treaty, without seeking to implant upon it exceptions which it did not contain, and in spite of the fact that, on the strict interpretation that would have been given to a criminal or penal statute of our own country, he would doubtless have been discharged.

The reason for this adjudication is to be found in the words of Mr. Justice Brown, which, when compared with the interpretation which Russia had given to the first article of this same treaty, emphasizes the astonishment evoked in any well-constituted mind at the wanton disregard by Russia of the sanctity of its national honor. Says the distinguished jurist, in terms that reflect credit upon our jurisprudence:

> We think, then, that the rights of the parties must be determined by the treaty, but that this particular convention being operative upon both powers and intended for their mutual protection, should be interpreted in a spirit of *uberrima fides*, and in a manner to carry

> out its manifest purpose. (Taylor on *International Law*, Section 383.) As treaties are solemn engagements entered into between independent nations for the common advancement of their interests and the interests of civilization, and as their main object is not only to avoid war and secure a lasting and perpetual peace, but to promote a friendly feeling between the people of the two countries, they should be interpreted in that broad and liberal spirit which is calculated to make for the existence of a perpetual amity, so far as it can be done without the sacrifice of individual rights or those principles of personal liberty which lie at the foundation of our jurisprudence. It is said by Chancellor Kent in his *Commentaries* (Vol. I, 174): "Treaties of every kind are to receive a fair and liberal interpretation according to the intention of the contracting parties, and are to be kept with the most scrupulous good faith. Their meaning is to be ascertained by the same rules of construction and course of reasoning which we apply to the interpretation of private contracts."

This decision was rendered just nine years ago, and one would have believed that, with such an exalted example of the faithful performance on the part of our government and all of its departments of the behests of this treaty, Russia would have hearkened to the representations of our government demanding that it should recognize its reciprocal obligations and give full faith and credit to its own treaty obligations. It has, however, remained deaf to the oft-repeated and earnest expostulations which our government has addressed to it. It has drawn the lines of discrimination more harshly. It has excluded great American merchants and manufacturers and builders from its territory. As a crowning insult, it has but recently issued a special edict, offering to an American ambassador the privilege of entering its territory, "notwithstanding that he was one of the Jewish persuasion." By a special act of grace, an accredited representative of the government of the United States was tendered absolution for the crime of being a Jew, a favor which this experienced diplomat happily declined to accept. From the standpoint of the nation's honor, however, the refusal to admit even an ambassador of this country would have been no greater wrong than the refusal to honor the passport of the humblest of our citizens.

For more than thirty years this condition, described in many of our diplomatic dispatches to Russia as intolerable, has nevertheless been tolerated. Every four years, when the national conventions meet, planks have been placed in the platforms of the great parties, giving assurance of relief. On June 22, 1904, the Republican National Convention declared:

> We commend the vigorous efforts made by the Administration to protect American citizens in foreign lands and pledge ourselves to insist upon the just and equal protection of all our citizens abroad. It is the unquestioned duty of the Government to procure for all our citizens, without distinction, the rights of travel and sojourn in

> friendly countries, and we declare ourselves in favor of all efforts tending to that end.

On July 8, 1904, the National Convention of the Democratic Party declared:

> We pledge ourselves to insist upon the just and lawful protection of our citizens at home and abroad, and to use all proper measures to secure for them, whether native born or naturalized, and without distinction of race or creed, the equal protection of our laws and the enjoyment of all rights and privileges open to them under the covenants of our treaties of friendship and commerce; and if under existing treaties the right of travel and sojourn is denied to American citizens, or recognition is withheld from American passports by any countries on the ground of race or creed, we favor the beginning of negotiations with the government of such countries to secure by treaties the removal of these unjust discriminations. We demand that all over the world a duly authenticated passport issued by the Government of the United States to an American citizen shall be proof of the fact that he is an American citizen, and shall entitle him to the treatment due him as such.

At the Republican National Convention held June 19, 1908, there was a reiteration in exact words of the declaration contained in the platform of 1904, and in the platform adopted by the Democratic National Convention of July 9, 1908, there was a similar repetition of the pledge contained in its platform of four years before.

In his speech of acceptance, delivered at Cincinnati, July 28, 1908, Mr. Taft said:

> The position which our country has won under Republican administrations before the world should inure to the benefit of every one, even the humblest of those entitled to look to the American flag for protection, without regard to race, creed, or color, and whether he is a citizen of the United States or of one of our dependencies. In some countries with which we are on friendly terms, distinctions are made in respect to the treatment of our citizens traveling abroad, and having passports of our Executive, based on considerations that are repugnant to the principles of our Government and civilization. The Republican party and administration will continue to make every proper endeavor to secure the abolition of such distinctions which, in our eyes, are both needless and opprobrious.

In a speech delivered by Mr. Taft at Brooklyn, October 26, 1908, he said:

> It seems to me that we ought to give the traveling American citizen the broad significance that Roman citizens had in the days of Rome. Therefore, we should progress to the point where, no matter

> in what part of the world an American citizen may be found, his certificate of citizenship shall be all that is required to insure his respect and good treatment. Nothing, if I am elected President, will give me greater pleasure than to devise ways and means to make the American passport respected the world over. Do not misunderstand me. What I am promising is, that every effort shall be made to this end.

In a speech delivered by Mr. Taft at the Thalia Theatre, in this city, on October 28, 1908, he said:

> But that national prestige must be used not only for the benefit of the world at large, but for the benefit of our own citizenship; and, therefore, as we gain in international prestige we ought to assert our insistence that our passport certifying our citizenship should secure to every man, without regard to creed or race, the same treatment, the same equality of opportunity in every nation of the globe. Now, this is not a matter with respect to which promises of immediate accomplishment can be made, but of this you can be certain, that if you commend the administration of Theodore Roosevelt by electing a Republican Administration to succeed his, that Administration will continue to press that question until the certificate contained in an American passport shall have the effect that it ought to have.

In a letter addressed by Mr. Root, then Secretary of State, to Mr. Jacob H. Schiff on October 19, 1908, after giving the reasons for acting favorably upon the application for the reopening of the Pouren case, that great statesman said:

> The other matter relates to securing from the Russian Government equality of treatment for all American citizens who seek to enter Russia with passports, without regard to their creed or origin. Our Government has never varied in its insistence upon such treatment, and this Administration has repeatedly brought the matter to the attention of the Russian Government and urged the making of a new treaty for the purpose of regulating the subject. We have but very recently received an unfavorable reply to this proposal, and we have now communicated to Russia an expression of the desire of this Government for the complete revision and amendment of the treaty of 1832, which provides for reciprocal rights of residence and travel on the part of the citizens of the two countries. We have expressed our views that such a course would be preferable to the complete termination of the treaty, subjecting both countries to the possibility of being left without any reciprocal rights whatever, owing to the delay in the making of a new treaty.

These authoritative expressions indicate, beyond peradventure, that the attitude of Russia toward the American passport is regarded, as it must be, as exclusively an American question, one which concerns the nation as an entirety.

During the past two years there has been an abundance of well-directed effort to induce Russia, by the ordinary diplomatic channels, to recognize the obligations of its contract. Congress had passed resolutions indicative of the same desire, and of a like recognition of the broad scope of the question at issue. Apparently we are to-day as far from a solution of this problem, which goes home to every American citizen, as we were thirty years ago.

The painfully slow methods of diplomacy have failed. We, a nation of a hundred million Americans, stand at the door of Russia, hat in hand, pleading with it that it shall recognize and perform its contract. With sardonic smile Russia answers, "Not yet." A nation is but an individual written large. Imagine the patience of a creditor who for thirty years waits upon his debtor and pleads with him at his home for the payment of his debt. The average man would be tempted under such circumstances, long before the lapse of thirty years, to take such proceedings as would reverse the process and lead his debtor not only to ask for leniency but to make ample amends.

Does this mean that we should go to war with Russia? Certainly not! War is abhorrent to us. It is brutal, inhuman, cruel. Its horrors fall upon the innocent. Its effects are felt by the entire universe. The mission of America, as well as of Israel, is peace. But there is a simpler, an easier, and an equally effective method of dealing with a nation that insults another; the same method to which a self-respecting civilized man resorts when he is insulted. He does not shoot. He does not commit an assault. He merely ceases to have further relations with the individual who has disregarded the amenities of life. And so with nations. It is within the power of a country situated as ours is, to isolate Russia and to terminate all treaty relations with a Government which fails to recognize the solemnity and the sanctity of its treaty obligations, and that is exactly what should be done without further delay.

As long ago as September 14, 1908, this very plan was advocated in an editorial which appeared in the *Cincinnati Times-Star*, in which it was said:

> The Republican Party is thus pledged to grant relief from the intolerable conditions which now prevail, which prove a constant source of irritation, which involve the infliction of a perpetual insult upon every self-respecting American citizen, which lead to a disregard of that comity which we have always extended to other nations, and which cannot do otherwise than result in injurious discrimination against our commerce and the impairment of our national dignity. What can be done to remedy these evils is a question which has been frequently asked. If Russia continues to avail herself of the benefits

> of the treaty of 1832, and of the extradition treaty between the two countries, it is a matter worth earnest consideration whether our Government should not denounce both of the existing treaties, as it has the right to do, because of Russia's disregard of the American passport. Conditions in Russia are such that she would hardly regard with indifference such action by a government which is a world power. The time would seem at hand for insistence. American citizenship can no longer be held so cheap that it can at will be disregarded or ignored. The Republican party has pledged itself to this principle, and it may be safely relied upon to redeem its promises.

Can the remedy thus indicated be pursued? There is nothing in the law of nations to prevent it. By the express terms of Article XII of the treaty of 1832 it is provided:

> The present treaty . . . shall continue in force until the 1st day of January in the year of our Lord one thousand eight hundred and thirty-nine, and if one year before that day one of the high contracting parties shall not have announced to the other by an official notification its intention to arrest the operation thereof, this treaty shall remain obligatory one year beyond that day, and so on until the expiration of the year, which shall commence after the date of a similar notification.

In other words, the treaty is terminable on one year's notice. So long as this compact is treated by Russia as devoid of mutuality, so long as it denies to it the element of reciprocity, which is written all over it, we might as well be without a treaty as to be subjected to the constant humiliation, irritation, and exasperation attendant upon its continuous violation. This treaty has become both a farce and a tragedy. Let the note be sounded, *La comedia è finita.*

There is another treaty between the United States and Russia—the Extradition Convention concluded March 23, 1887, and proclaimed June 5, 1893. Under this Russia has sought from time to time to extradite political offenders—Pouren and Rudowitz among others. All of the benefits of this treaty rest with Russia. It may well be doubted whether there has been any time when our country has had occasion to avail itself of its terms. This treaty also makes provision for its termination. "It shall remain in force for six months after notice of its termination shall have been given by either of the contracting parties."

Independently of these express provisions admitting of the cessation of treaty relations between the two countries, it is a recognized doctrine of international law that, under conditions precisely like those which have been described, the abrogation of a treaty, even though it contains no provision for its termination, is justifiable.

In Hall on *International Law*, fourth edition, pp. 367-369, the author says:

> It is obviously an implied condition of the obligatory force of every international contract, that it shall be observed by both of the parties to it. In organized communities it is settled by municipal law whether a contract which has been broken shall be enforced or annulled; but internationally, as no superior coercive power exists, and as enforcement is not always convenient or practicable to the injured party, the individual State must be allowed in all cases to enforce or annul for itself as it may choose. The general rule then is clear, that a treaty which has been broken by one of the parties to it is not binding upon the other, through the fact itself of the breach, and without reference to any kind of tribunal. . . . Some authorities hold that the stipulations of a treaty are inseparable, and consequently that they stand and fall together; others distinguish between principal and secondary articles, regarding infractions of the principal articles only as destructive of the binding force of a treaty. Both views are open to objection.
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> It may be urged against the former that there are many treaties of which slight infractions may take place without any essential part being touched; that some of their stipulations which were originally important may cease to be so, owing to the alteration in circumstances, and that to allow states to repudiate the entirety of a contract upon the ground of such infringements is to give an advantage to those who may be inclined to play fast and loose with their serious engagements. On the other hand, it is true that every promise made by one party in a treaty may go to make up the consideration in return for which essential parts of an agreement are conceded or undertaken, and that it is not for one contracting party to determine what is or is not essential in the eyes of the other. . . . All that can be done is to try to find a test which shall enable a candid man to judge whether the right of repudiating a treaty has arisen in a given case. Such a test may be found in the main object of a treaty. There can be no question that the breach of a stipulation which is material to the main object, or if there are several, to one of the main objects, liberates the party other than that committing the breach from the obligations of the contract.

The article of the treaty of 1832 which has been violated by Russia is the one which was the main object of that treaty—the clause which was given precedence over all others, the very basis and foundation on which all other provisions contained in the document rest. It is not necessary therefore, to resort to fine distinctions or to indulge in close analysis for the purpose of ascertaining whether the test laid down in this and other authorities has been met. The stipulation which has been broken is not only material to the main object, but was and is the main object of the treaty.

But it may be argued that the suspension of commercial relations between the two countries may hurt our trade. I have a higher opinion of the American people than to believe that they are so destitute of idealism, so devoid of a sense of honor, as to regard a matter of this supreme importance with the eyes and souls of mere shopkeepers. However extensive our trade with Russia might be, we could well afford to jeopardize it rather than to have it said that our country rates the dollar higher than it does the man, that it esteems the volume of its trade more than its national dignity.

After all, the export trade of the United States with Russia does not much exceed eighteen million dollars per annum. What is that to a nation, the products of whose soil during the past year amounted to nearly nine billions of dollars? Should we then lose all of this commerce, our national prosperity would not be perceptibly affected.

It may also be said that Russia is about to engage in large undertakings which will enlist American capital, the development of mines, the construction of storehouses for grain, the building of railroads, and that we are imperiling such enterprises by denouncing our existing treaties with Russia. But what of that? Is it not better that we may know in advance what the attitude of Russia is to be toward American citizens before they invest their capital for the development of the resources of Russia, than to lodge complaints after the capital has been invested and promises have been broken? And after all, there are still opportunities in the United States for the profitable employment of adequate capital for the promotion of our own industries, and Central and South America still offer promising fields for the investor.

There are others who will prate of the historic friendship of Russia for America, and the tale will be retold of what Russia did for us during the Revolutionary War and during the Civil War. That fable has been thoroughly analyzed, and the real facts have been demonstrated. But assuming that in the past we may have profited from Russia's attitude, who is so credulous as to believe that the land of the Czars, the country of absolutism, has been so enamored of freedom, of constitutional government, of democracy or of republicanism, as to have acted either from love of us, or of our institutions? Whenever Russia has acted, it has been simply and solely for political expediency.

But let us assume that Russia has, from any motive whatsoever, extended to us offices of friendship. Have we not fully requited all of its kindnesses? Was it not through the intervention of President Roosevelt that Russia was extricated from one of the bloodiest and most disastrous wars known to history? The account between the two countries has been fully balanced so far as political favors are concerned.

But there still remains a long account against Russia of broken promises, of violated obligations, of a compact condemned and disregarded, of dishonor inflicted upon our country and its citizens, and unless the virtue of manhood has deserted this Republic, its citizens will no longer patiently witness the mockery of diplomatic procedure, but will insist on a complete abrogation of every treaty now existing between the United States and Russia.

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THE ABROGATION AND ITS RESULTS

MR. MARSHALL'S address at once attracted the widest attention, and was printed and reprinted,[14] and commented on favorably by the daily and weekly press of the country. Numerous bills for the abrogation of the violated Russian treaty were promptly introduced in Congress, among others by Senator Culberson and Congressmen Goldfogle and Herbert Parsons. A conference was also held at the White House with President Taft, on February 15, 1911, which was attended by prominent Jews whom he had invited to meet him, namely, Louis Marshall, Jacob H. Schiff, Adolf Kraus, Simon Wolf, Philip Stein, Jacob Furth, J. Walter Freiberg and Bernhard Bettman, in the course of which the President announced that he had concluded not to give notice to terminate the treaty, because he felt that its abrogation would not be helpful to the cause of the Jews, but would, on the other hand, injure American commercial interests, and might lead to further anti-Jewish reprisals. He stated that, if he believed that the condition of the Jews would be helped by termination, he would give the notice in question. The conference expressed to him their deep disappointment, and Mr. Schiff at once stated that "they would put the case before the American people directly. He authorized Mr. Marshall to draw upon him in the sum of $25,000 to promote a campaign of public education," and he subsequently embodied his views in a letter to the President.[15] The very day following the interview with the President, the House of Representatives Committee on Foreign Affairs held a hearing on the abrogation resolutions, at which Herbert Parsons, Louis Marshall and Congressmen Harrison, Goldfogle and Graham advocated abrogation.[16] Congressman Parsons also delivered a forcible address in Congress in favor of abrogation on February 22, 1911 (*Congressional Record*, Vol. XLVI, pp. 3138-3141, and pamphlet reprint), which attracted particular attention, because he was not merely a distinguished lawyer, exceptionally well posted as to Russian affairs, but was, and for some years had been, Chairman of the Republican New York County Committee. Both in his argument before the House Committee and in Congress proper Mr. Parsons stressed the fact that an American question, and not a Jewish question, was involved. He said (*Hearing*, pp. 276-278):

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[14] In pamphlet form, in the proceedings of the Union of American Hebrew Congregations, as Senate Document 839 of the 61st Congress, 2nd session, in *Hearing*, pp. 266-272, and in the *American Jewish Year Book*, 1911-1912, pp. 76-87.

[15] Wolf's *Presidents I Have Known*, pp. 293-320; Kraus, *op cit.*, pp. 190-192; Adler, *op. cit.*, Vol. II, pp. 146-152.

[16] The proceedings were promptly printed by Congress, and were reprinted in aforecited *Hearing* of December 11, 1911, pp. 272-288.

> What is the mission of the United States, unless it is to stand for certain fundamental doctrines among mankind and in the civilized world—such as the right of religious belief? As long as we remain tied, we are faithless to the proposition that all American citizens are to be treated everywhere without regard to their religious beliefs. . . . I think this is a test whether we are going to be true to our best traditions, or whether we are not.

In answer to an inquiry he conceded that the immediate effect would be only a moral one, but added:

> But in the course of time, as civilization advances and as liberalism grows in Russia, there is bound to be a new condition of affairs. The time will certainly come when American Jews will be allowed to travel in Russia. It will come sooner, if we make the demand, and make it by saying that we will not be a party to any treaty which does not entitle them to equal treatment.

The House Committee on Foreign Affairs tentatively decided to report the abrogation resolution favorably, but concluded first to confer with Secretary of State Knox, and his opposition prevented action at this Congress.[17] Mr. Knox permitted Russia to mislead him so completely in this matter that he wrote in 1910 that relief was expected from the report of the Durnovo Commission which he declared was then engaged in revising Russia's passport system. Mr. Herman Bernstein however, in the *New York Times* of July 2, 1911, showed that that commission had concluded its futile labors years before! About the same time the Russian Duma debated a bill to abolish the Pale, and by a vote of 208 to 138 referred the same to a committee to report upon it promptly, but it was conceded that its fate depended on the government.[18]

Meantime, numerous legislatures in our chief states passed resolutions in favor of abrogation, including Georgia, Illinois, Massachusetts, Montana, New York, Wisconsin (*Congressional Record*, Vol. XLVII, pp. 1067, 2791, 97, 3790, 1873), and California (*Congressional Record,* Vol. XLVIII, p. 73). Before the next session of Congress began, monster mass meetings in favor of abrogation were held all over the United States. At a meeting held in Carnegie Hall, New York City, notable addresses were delivered by Wm. G. McAdoo, Andrew D. White, Senator O'Gorman, William R. Hearst, Bishop Greer, Gov. Woodrow Wilson of New Jersey, Champ Clark, Speaker of the House of Representatives, President Jacob G. Schurman of Cornell and others, and it may be doubted if so many illuminating, high-planed, and vigorous addresses in favor of religious liberty were ever delivered on any other single occasion.[19] On October 22, 1911, Judge Sulzberger showed the impossibility of arbitrating the controversy, when a delegation conferred with Senator Penrose of Pennsylvania, who favored a vigorous course (*American Hebrew*, Oct. 27, p. 803). Soon thereafter, on Nov. 16, a delegation which included Judge Mack, Julius Rosenwald, Harry Cutler, and Isaac M. Ullman conferred with President Taft (*American Jewish Year Book* for 1912-1913, p. 198), as did also Adolf Kraus and Simon Wolf on December 6 (*Ibid.*, p. 204), and on November 25 the American Federation of Labor at its annual meeting adopted resolutions in favor of abrogation (*American Hebrew*, December 1, 1916, p. 134).

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[17] *American Hebrew*, Vol. LXXXVIII, p. 494 (February 24, 1911); p. 553 (March 10, 1911).

[18] *American Hebrew*, Vol. LXXXVIII, p. 577 (March 17, 1911).

[19] See transcript in *Hearing*, pp. 3-31.

As soon as Congress reassembled in December, numerous resolutions in favor of abrogation were introduced, notably by Wm. Sulzer, Chairman of the House Committee on Foreign Affairs, later elected Governor of New York, who arranged for a hearing before his committee on December 11, 1911. As before, Louis Marshall was the dominating figure at this hearing, and his argument was an able expansion of the address hereinbefore reprinted. Among many other able addresses were those by Judge Sulzberger, Rev. Donald C. McLeod, Jacob H. Schiff and Oscar S. Straus; and the Carnegie Hall addresses, the diplomatic correspondence referred to, and other papers were made part of the 336 page printed record (designated herein as *Hearing*), including an able brief on methods of terminating treaties by Dr. Herbert Friedenwald, who labored indefatigably as secretary of the American Jewish Committee. Among others advocating abrogation was the Federation of Churches of New York City and vicinity, representing over seven hundred Christian churches. The result was that the committee the very next day unanimously reported the resolution of Congressman Sulzer favorably in an able report, which included a convincing brief prepared by Dr. Arthur K. Kuhn.[20] The resolution thus reported read as follows:

> Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the people of the United States assert as a fundamental principle that the rights of its citizens shall not be impaired at home or abroad because of race or religion; that the Government of the United States concludes its treaties for the equal protection of all classes of its citizens, without regard to race or religion; that the Government of the United States will not be a party to any treaty which discriminates, or which by one of the parties thereto is so construed as to discriminate, between American citizens on the ground of race or religion; that the Government of Russia has violated the treaty between the United States and Russia, concluded at Saint Petersburg, December eighteenth, eighteen hundred and thirty-two, refusing to honor American passports duly issued to American citizens, on account of race and religion; that in the judgment of the Congress the said treaty, for the reasons aforesaid, ought to be terminated at the earliest possible

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[20] House Report No. 179 of the 62nd Congress, 2nd session.

> time; that for the aforesaid reasons the said treaty is hereby declared to be terminated and of no further force and effect from the expiration of one year after the date of notification to the Government of Russia of the terms of this resolution, and that to this end the President is hereby charged with the duty of communicating such notice to the Government of Russia.

The House of Representatives immediately proceeded to consider this resolution (*Congressional Record*, Vol. XLVIII, Part 1, pp. 311-354 and Part 12 (Appendix), pp. 16, 17 and 698-703) and the same was at once adopted by a vote of 301 to 1, the only dissenting vote being cast by Congressman Maltby (*Ibid.*, Part 12, p. 17), solely on the ground that he did not think the resolution would lead to remedying the evil involved. The Senate Committee on Foreign Relations next held a hearing on the measure on December 13, 1911, at which Louis Marshall, Mayer Sulzberger and Oscar S. Straus made able arguments. Senator Lodge thereupon notified President Taft that an abrogation measure would pass the Senate, probably unanimously, and as the President thought that the form of the resolution was calculated to give unnecessary offense to Russia, he caused United States Ambassador Guild at St. Petersburg to give notice of termination, to be effective on the first of January, 1913, and requested the Senate to confirm his action.[21] Accordingly the Senate Committee by Senator Lodge reported a substitute resolution on December 18, 1911, reciting the treaty, together with the presentation by the President of notification of intended termination to Russia on December 17, 1911, and approved and ratified his action, as follows:

> and Whereas said treaty is no longer responsive in various respects to the political principles and commercial needs of the two countries, and Whereas the construction placed thereon by the respective contracting parties differs upon matters of fundamental importance and interest to each, the notice by the President to terminate said treaty in accordance with the terms of the treaty is hereby adopted and ratified.

This substitute resolution was debated at considerable length in the Senate, and passed without a dissenting vote (*Congressional Record*, Vol. XLVIII, pp. 453-507), the House concurred (*Ibid.*, pp. 552-559), and President Taft approved on December 21, 1911 (37 Statutes at Large, 627). In the Senate the most notable address in favor of the resolution was delivered by Senator Isidor Rayner (*Congressional Record*, Vol. XLVIII, pp. 473-478), to whom Senator Lodge yielded the floor after reporting it, a most unusual course, as the official in charge commonly opens the discussion; Senator Rayner's address deserves to rank among the masterpieces of American oratory. Both it and Senator Lodge's address have already been quoted from. Much of the Senate discussion emphasized the undesirability of continuing a treaty supposed to run counter to the American doctrine of right of expatriation, and pointed out that abrogation was all the more in order if Russia's construction of the treaty was correct. Senator Lodge himself stated that he did not wholly like the phraseology of this substitute resolution, however, and that it was not drafted by himself, but as it was understood that a failure to give notice before the rapidly approaching new year under the treaty would continue it in force until January 1, 1914, both the Senate and the House of Representatives rapidly passed the resolution before the holiday recess.

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[21] *Foreign Relations of the United States* for 1911, pp. 696-699; Wm. H. Taft, *Our Chief Magistrate and His Powers* (1916), pp. 116-117; *American Jewish Year Book*, 1912-1913, pp. 196-210.

Under date of December 15, 1911, Mr. Schiff wrote (Adler, *Jacob H. Schiff*, Vol. II, pp. 150-151):

> It is all like a dream and I little thought, when I said to the President last February, " . . . This question will not down, Mr. President . . . we shall now go to the American people," that the latter could be so readily aroused, and that action on their part would be so prompt and so effectual. Louis Marshall has outdone himself all through, and to him more than to anybody else, is due what has been accomplished.

Six days later Mr. Schiff wrote to Senator Lodge with reference to a conversation he had had the day before with President Taft, that "he appears to be entirely pleased and satisfied," and to Mr. Simon Wolf the President wrote under date of December 21, 1911, "I took the only course that was open to me, after the negotiations had exhausted every resource of diplomacy." In his addresses of 1916 on *Our Chief Magistrate and His Powers*, ex-President Taft described Russia's attitude as "so contrary to our notions of equity and tolerance to all religions [that it] naturally irritated our people, and led to the introduction of the House Resolution in question." Count Witte, in his *Memoirs* (p. 384) wrote about Russia's course:

> As a result, the American Government lost its patience and denounced its old commercial treaty with Russia. Our jingoists are naturally threatening against America. There is no doubt, however, that we ourselves have driven the United States Government to this step.

It is often erroneously assumed that our action in the matter was wholly futile, and seldom have the subsequent resulting events been described. One immediate consequence of the abrogation agitation was that the Russian Foreign Minister, Sazanoff, on December 16, 1911, told United States Ambassador Guild of a recent ruling that

> the Russian Government, while refusing, as a matter of principle, to accept any Jew whom the United States chooses to send, regardless of

> his character or previous record as a violator of Russian laws, is perfectly willing to admit for temporary sojourn any respectable American Jew who can show reasonable ground why, for business affairs, it is necessary that he should visit Russia. He repeated in substance the interview telegraphed December 14 to the effect that Russia could never accept a policy of absolutely free admission.[22]

Of course neither the United States nor anyone on their behalf ever contended that persons of bad character, or physically diseased or paupers, whatever their creed, were admissible under the treaty, and our own Supreme Court had construed our treaties as authorizing the exclusion of persons objectionable personally, such as criminals or paupers, in the Japanese Immigrant Case, 189 U. S. 86. Russia, however, imposed a religious and racial bar, violative of her treaty, against whole classes of Americans, and such personal assurances of her ministers could not be relied upon, when she disregarded her solemn treaties. The whole interview with M. Sazanoff was most interesting and illuminating. Ambassador Guild reports that Sazanoff said to him:

> In regard to the vote of the House on the abrogation of the treaty it is incomprehensible that the United States should deliberately consider the sacrifice of a present and prospective market of hundreds of millions of dollars, knowing that Russia in return sold so very little to the United States. I explained to him that the nature of the American people was completely misunderstood in Europe; that the nation was in no way materialistic in its temperament, but on the contrary, was more easily appealed to by questions of sentiment when the appeal was made on the ground of humanity and civilization than any other nation in the world; and that, whether mistaken or not, if they believed in a cause they were ready to make any sacrifices for the accomplishment. I explained frankly that the action of the House was unquestionably influenced by a sincere conviction that such action might have far-reaching results in inducing Russia to abandon not only restriction of foreign Jews, but restriction of her own Jews, and pointed out that from the American point of view, absolute freedom of speech and freedom of movement appeared to be the best cure for treason and conspiracy, by removing any possible grievance. He very courteously, but with much emphasis, declared that what might be true in America was not true in Russia, and that the United States did not appreciate the Russian situation. . . . He explained that though some radical members might present such bills (to the Duma, to abolish the Jewish pale), not only would the Government be unable, especially with the present excited feeling against the Jews, to take up such bills, but that neither the present Duma, nor any Duma likely to be chosen, would consent to their adoption.

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[22] *Foreign Relations of the United States* for 1911, pp. 696-699.

The next day (December 17, 1911) Ambassador Guild reported that he had delivered the comparatively inoffensive notification of termination of the treaty, which President Taft directed should be given without awaiting congressional action, and he added that M. Sazanoff

> expressed emphatically his surprise at the action of the Government of the United States, which he regarded as most unfriendly. Russia's position is that she has faithfully observed the treaty and that the action of the United States is unaccountable. Once formally presented, no amicable discussion of the question is possible, Russia taking the ground that no self-respecting nation can act under pressure from abroad.

The extreme Russian point of view was taken in a pamphlet issued in English by a Russian writer, B. P. Egert, soon after the abrogation, entitled *The Conflict between the United States and Russia* (1912), and Sir Edward Grey declined, on behalf of England, to adopt the suggestion of British Jews that our example should be followed, saying, under date of October 1, 1912, of the Russo-British treaty, that termination "would in no way advance the interests of those whom you represent, and would in other respects be disadvantageous to British interests.[23] But among the many who approved of our abrogation was ex-President Roosevelt, writing in the *Outlook*, December 30, 1911, while the cheering effect on the East European Jews is well expressed by Dr. Josef S. Bloch, distinguished Austrian Jewish parliamentarian and publicist, who wrote on the subject in his booklet *Ein Besuch beim Judentum in New York und Umgebung* (Vienna, 1912), pp. 8-9, as follows:

> My arrival coincided with one of the grandest moments in the history of the United States, with the abrogation of the Russo-American Commercial Treaty. This subject was discussed at the time throughout the whole United States, occupied all minds, came up in all public and private discussions, and appeared to be the only matter of universal interest. The first question put to me by reporters was therefore: What are your views concerning the abrogation of the Russian commercial treaty? I found the general interest quite comprehensible. Consider what unheard-of occurrence had taken place! For the first time in the history of the Diaspora, a great nation terminates its relations with another nation, denounces the same, on account of the persecuted, miserable Jew! To-day, when the statesmen of Europe vie with each other, crawling on their bellies to implore Russia's favor, and calmly observe the terrible deeds of shame of the Russian assassins, a nation arises filled with contempt, and dissolves friendship with Russia—on account of the treatment of the Jews! I characterized this to the newspapermen as an act of

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[23] Lucien Wolf's *Notes*, p. 83.

> culture (*Kulturtat*) of prime import, which will shine as a page with a golden halo in the history of human progress in the memory of coming generations. America has taken over the mission to realize the prophecies of Jeremiah, Chapter 31, preparatory to the advent of the messianic time; through this great act of state, the United States have gained the thanks of all freedom-loving people, and everywhere, where men are held in bondage on account of their religious and political convictions, and are maltreated, where the crushed and helpless suffer under tyrannical rulers, prayers ascend to heaven for the prosperity and growth of the glorious American republic.

But apart from the object lesson this abrogation afforded, keen observers felt that in the long run the cause of Jewish emancipation in Russia would be greatly promoted by it, even though men like Dubnow, the Russian Jewish historian, writing before the Russian Revolution, were mistaken in emphasizing only "the moral significance" of our action (*Neuest Geschichte des jüdischen Volkes*, Vol. III, p. 562). With respect to our movement Andrew D. White, who had not merely been our envoy to Russia but was one of the wisest Americans of his day, said:

> Russia is as a matter of fact one of the proudest countries on earth. She wishes to be well thought of by the whole world, and it is this wish on her part that I would enlist in the service of peace with honor. Russia is always taking great pains to secure the world's respect and good opinion. . . . It was once my privilege during ten successive mornings and evenings to walk and talk and sit in discussion with Tolstoy at Moscow, and on one of these occasions he said to me, "I wake every morning, surprised that I do not find myself on the road to Siberia." I answered him: "There is no danger of that, the Russian Government is too wise for that—it cares too much for the public opinion of the world." . . . My hope is that . . . the facts having been fully exhibited to the full view of mankind in the broad light of truth, right, reason, and justice, Russia may show the whole world a triumph of the better and greater qualities of the Russian people over outworn prejudice.

The fact that Andrew D. White himself favored an attempt at arbitration before the Hague Tribunal before abrogation, does not change the force of this argument, and the answer to the suggestion of arbitration seems unanswerable, that abrogation would have been an even more imperative duty if there had been a decision adverse to us in the improbable contingency that Russia would have consented to an international arbitration. This spectacular abrogation had a much more profound effect in shaming Russia than is commonly recognized. The very Sazanoff who had denounced our action to Ambassador Guild, less than eight years later in turn denounced Russia's cruel treatment of the Jews under the Czar's government as "an indefensible wrong," and Oscar S. Straus, to whom he made this latter statement, reported in his autobiography (pp. 417f.), added:

> It is true that Sazanoff belonged to the so-called liberals of Russia and they did not have the courage to stand up for the basic principles of humanity when in office, which they now, doubtless sincerely, proclaim. Such is the withering and dispiriting effect of autocratic government upon its own highest officials, who often lack the courage, even if they have the vision, to correct abuses; and because of this moral cowardice, they prepare the way and supply the motive that sooner or later expresses itself in revolution. Napoleon is reputed to have said that the treatment of the Jews in every country is the thermometer of that country's civilization.

This brings us to the further point which Mr. Herbert Parsons had emphasized in a passage above quoted—a point which had come with particular force from this leading counsel for Pouren in the extradition proceedings against him, closely in touch with liberal sentiment in Russia, which such action as ours greatly strengthened: Our action would hasten religious equality in Russia. In striking a blow for Jewish and religious rights, a blow was inflicted by us upon the whole autocratic Czaristic structure. Almost the first act of the Provisional Government in Russia after the Revolution, to wit, on April 26, 1917, was to sweep away these very discriminatory laws, announcing its purpose so to do, on March 18, 1917, doubtless in part to influence us and the liberal sentiment of the world,[24] and our government almost immediately recognized the new Revolutionary Provisional Government, before it was recognized by the other great powers. As stated in Mr. Sack's work:

> Simultaneously with the liberation of Finland and Poland, the Provisional Government stretched out a fraternal hand to the suffering Jewish people in Russia, and with one stroke of the pen repealed all the anti-Jewish laws. . . . All existing legal restrictions upon the rights of Russian citizens. based upon faith, religious teaching or race, are revoked!

And he quotes from Miliukoff's answer to Ambassador Francis' announcement of American recognition of the Kerensky government: "the ideals which are represented by the Provisional Government are the same as underlie the existence of your own country." Russia subsequently started a lamentable campaign against all religion but that does not involve discrimination against the Jews in particular.

[24] *American Journal of International Law*, Vol. XI, p. 417; David R. Francis, *Russia from the American Embassy*, pp. 94-99. *Foreign Relations of the United States* for 1917, pp. 1207, 1208, 1210; A. J. Sack, *The Birth of the Russian Democracy* (3d ed.), pp. 253-256; *American Jewish Year Book*, 1917-1918, pp. 306-309; 1918-1919, pp. 370-372; Senator Grusenberg's address in English edition of Flegg's *Jewish Anthology;* F. A. Golder, *Documents of Russian History, 1914-1917*, pp. 131, 135, 306, 309, 310, 312, 347, 393, 512; Yarmolinsky's *The Jews and Other Minor Nationalities Under the Soviets.*

II

D

THE WORLD COURT AND THE PROTECTION OF RACIAL AND RELIGIOUS MINORITIES

ADDRESS BY LOUIS MARSHALL

MR. CHAIRMAN and ladies and gentlemen: If the average good citizen of the City of New York or of any part of the country were asked to tell us what the minority treaties are or what is meant by the expression "racial, linguistic, and religious minorities," he would have great difficulty in making any intelligible statement, principally because he knows nothing about the subject. I suppose that the same result would follow if you asked him to give specific information about the constitution of the United States, although he is presumed to know something about that. Assuming, therefore, that even those who are here to-night have not spent much time in informing themselves in regard to the treaties, I shall venture, in order to give a background to the statements which will be made by those who are to speak this evening, to give as clear an account of the treaties as it is possible to do in the time which is allotted to me.

These treaties were entered into by the great powers with the various new and enlarged states that emerged out of the turmoil of the war and out of the deliberations that took place in Paris in 1919. The contracting parties were, first, the United States, Great Britain, France, Italy, and Japan. The parties with whom these treaties were made were Poland, Roumania, Czecho-Slovakia, Jugo-Slavia, Bulgaria, Austria, Hungary, Turkey, Albania and other states; and there were also so-called declarations accepting the principles laid down in these treaties, entered into by states which were received into the League of Nations as a condition of their reception there, as, for instance, Latvia, Lithuania, and Esthonia and to a certain extent, also Finland. The making of such treaties was contemplated in the peace treaties entered into by the great powers and their allies

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[25] Delivered before the "Judæans," January 17, 1926. From *Judæan Addresses, Selected*, Vol. III (1927), pp. 169-182. On the same occasion addresses on the same subject were also delivered by Hon. Samson Lachman (Chairman), Prof. Manley O. Hudson and Arthur K. Kuhn, printed in the same volume. Lack of space unfortunately prevents including the whole of this valuable symposium. It should be remarked, however, that Prof. Hudson's paper is particularly valuable, as complementing Mr. Marshall's, as it deals especially with the enormous number of infractions adjusted without being brought before the World Court, particularly by the secretariat of the League of Nations. As was well said by Prof. Gilbert Murray in his introduction to L. P. Mair's *The Protection of Minorities* (1928), "The most successful results so far have been obtained by modest and unpretending methods. The personal visits paid to the various governments by members of the minorities section of the secretariat, the friendly meetings of clergy of different nationalities under the auspices of the alliance of the churches, and the remarkably prudent and tactful conferences of the Federation of Minorities at Geneva, have so far done much more practical good than the heavy machinery of the Council, *though of course, they would not have achieved so much without the existence of that machinery in the background, and the knowledge that in the last resort it could be made to act.*"

with Austria, Germany, and the other governments which had been at war with the allied and associated powers.

In Article 93 of the treaty with Germany it was provided as follows:

> Poland accepts and agrees to embody in her treaty with the principal allied and associated powers such provisions as may be deemed necessary by the said powers to protect the interests of the inhabitants of Poland which differ from the majority of the population in race, language, and religion.

Similar provisions were contained in other of the peace treaties with the principal belligerents, so that it was foreshadowed that the main treaty would be followed by the specific treaties with respect to the protection of the rights of these minorities described as "racial, linguistic, and religious."

Now, the reason why such treaties were insisted upon is to be found in the history of Europe during many centuries and particularly during the nineteenth century. It was found that there had been no attempt upon the part of various of the governments of Europe to protect their minorities. They were in some of the countries in a state of helotism; they had no civil, religious, or political rights. They were merely tolerated. In Russia, for instance, the Jews were required to remain within the pale of settlement, where they were immured in what constituted less than one two-thousandth of the area of Russia, and there they were subjected to all manner of restrictive laws and regulations which made life unbearable to them. The same thing was true in Roumania, where between 1878 and 1919 two hundred and fifty-two restrictive laws were enacted which were aimed principally at the Jews.

What was true of the Jews was likewise true of other nationalities and adherents to other religious faiths. What was a grave situation prior to the war became a much more serious one in consequence of the establishment of the new states and the enlargement of existing states in Eastern Europe, in many of which new populations were introduced that spoke different languages, followed different religions, and were of different racial stocks from those of the nationality constituting the majority. It was, therefore, quite naturally anticipated that, unless something were done for the protection of these minorities, there would prevail constant controversy and ill will, jealousy, hostility, internal and external conflict, and even rebellion. There had been a striking illustration in 1878 of the necessity that treaties of this nature should be supported by effective sanctions. A treaty which is without a background of that sort is merely a scrap of paper in the literal sense of the term.

In 1878, at the end of the Turkish-Russian War, there assembled in Berlin the historic Congress in which the great powers of Europe participated, including England, under the leadership of Disraeli and Salisbury. There was France with Waddington at the head of her delegation. Italy and Austria were active. Germany was represented by Bismarck and Russia by Gortschakoff. New states were there created—Roumania, Serbia, Bulgaria—and it was found necessary that in the treaty which created these new states, there should be an assurance by each government about to be created that it would protect at least the religious minorities. Language and race had not at that time taken so prominent a part in political discussion. There was a specific provision that all who dwelt in these different countries were to have equal rights, regardless of faith and creed.

The Jews supposed that these pledges would bring to them a new era of happiness; that in Roumania, where they lived to the number of three hundred thousand, they would have the same rights as their neighbors, some of them and their ancestors having lived there from five to eight centuries. They were really the oldest stock in certain parts of Roumania. But the moment these states were created, there followed an absolute disregard, at least in Roumania, of the obligations which had been assumed under the treaty. That government at once began to seek a way to get around the language of the treaty, which had not been drawn with adequate care because it was not anticipated that its spirit would not prevail. But acting on the arbitrary theory that before a person could become entitled to the guaranteed rights he would have to be a citizen, and upon the pitiable technicality that the Jews, who had dwelt in Roumania for five or six or eight centuries, had not been naturalized, and had never been regarded as citizens, and that it would be necessary for them to be naturalized before the treaty would be regarded as conferring upon them the intended rights, Roumania put clauses into her constitution to the effect that nobody should be naturalized except by special act of parliament. There was to be no wholesale naturalization of the so-called aliens. The result was that, acting upon that plan, between 1878 and 1919 not to exceed three hundred of the three hundred thousand Jews in Roumania were naturalized, and the treaty therefore became a dead letter. When, therefore, the Peace Conference met in Paris, it was considered as necessary to present to that conference and to its leaders the facts to which I have called attention, and to ask that this time there should be adopted a series of treaties which would be really protective and which would be accompanied by legal sanctions.

The first treaty that was drafted was the treaty between the great powers and Poland. Months of continuous and intense effort were devoted to the formulation of this treaty so that it would safeguard and protect the rights of those who were sought to be protected. I had the high privilege of being in Paris during all the time while these treaties were under discussion and the greater privilege of working side by side with Mr. David Hunter Miller and with Professor Hudson, who is here to-night, both of whom did an enormous amount of work in conjunction with Mr. Headlam-Morley of Great Britain, M. Phillippe Berthelot of France, Signor Di Martino of Italy, and Mr. Adatci of Japan, in shaping this treaty and the others into the form in which they were finally adopted. It would be unpardonable did I not now avail myself of this opportunity, as I have never failed whenever I have discussed these treaties, to call attention to the inestimable obligation of the civilized world to Woodrow Wilson, to Colonel House, to M. Clemenceau, and to Lloyd George in respect to the creation of these treaties.

Now, it is desirable to have before us, when we discuss this momentous document, which ranks among the greatest state papers in the world's history, the text of the instrument.[26] The treaty was written both in French and in English. I shall confine myself to the English text. After reading the various recitals—the first article will be found to be of the utmost importance. It reads as follows:

> Poland undertakes that the stipulations contained in Articles 2 to 8 of this chapter shall be recognized as fundamental laws, and that no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them.

In other words, these provisions were made the supreme law of the several governments which entered into these treaties, Poland, Czecho-Slovakia, Roumania, and so on.

Then followed Article 2:

> Poland undertakes to assure full and complete protection of life and liberty to all inhabitants of Poland without distinction of birth, nationality, language, race or religion.

You will observe that it says nothing about property. In our constitution we speak of "life, liberty and property."

> All inhabitants of Poland shall be entitled to the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals.

Then follow a number of articles which provide, in substance, that the members of these various minorities that have been described, who have lived in these countries—I shall say Poland by way of illustration—who have lived in Poland, *ipso facto* become citizens of Poland, unless they decide to exercise the option of becoming or remaining citizens of the government of which they had previously been subjects—that is, they *ipso facto* become citizens of Poland by the adoption of the treaty and the indication of their desire to become citizens, but without the necessity of naturalization or of performing any act which would be a condition precedent to the creation of citizenship. Birth was also considered. Birth within the territory was made an important element in the determination of citizenship. A person became a citizen of Poland, even though such a person, born within the confines of Poland, may have been in another country at the time when the treaty went into effect.

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[26] See the text in *American Journal of International Law*, Vol. XIII, October, 1919 supplement, pp. 423-433; *American Jewish Year Book* for 1920, pp. 101-130; Temperley's *History of the Peace Conference of Paris*, Vol. V, pp. 432-470; and N. Feinberg's *La Question des Minorités à la Conference de la Paix de 1919-1920 et l'Action en Faveur de la Protection Internationale des Minorités* (Paris, 1929), pp. 141ff.

Then came Article 5:

> Poland undertakes to put no hindrance in the way of the exercise of the right which the persons concerned have, under the Treaties concluded or to be concluded by the Allied and Associated Powers with Germany, Austria, Hungary or Russia, to choose whether or not they will acquire Polish nationality.
>
> 6. All persons born in Polish territory who are not born nationals of another State shall *ipso facto* become Polish nationals.
>
> 7. All Polish nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.
>
> Differences of religion, creed or confession shall not prejudice any Polish national in matters relating to the enjoyment of civil or political rights, as for instance, admission to public employments, functions and honors, or the exercise of professions and industries. No restriction shall be imposed on the free use by any Polish national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.
>
> Notwithstanding any establishment by the Polish Government of an official language, adequate facilities shall be given to Polish nationals of non-Polish speech for the use of their language, either orally or in writing, before a court.
>
> 8. Polish nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Polish nationals. In particular, they shall have an equal right to establish, manage and control at their own expense, charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

Then follow various clauses as to education until we come to Article 11. It is the only article in which Jews are mentioned. The purpose of this treaty was that all nationals, all races, and all religions were to have equal rights; there was no desire to secure special rights or special privileges for the Jews:

> Jews shall not be compelled to perform any act which constitutes a violation of their Sabbath, nor shall they be placed under any disability by reason of their refusal to attend courts of law or to perform any legal business on their Sabbath. This provision, however, shall not exempt Jews from such obligations as shall be imposed upon all other Polish citizens for the necessary purposes of military service, national defense or the preservation of public order.
>
> Poland declares her intention to refrain from ordering or permitting elections, whether general or local, to be held on a Saturday, nor will registration for electoral or other purposes be compelled to be performed on a Saturday.

These outstanding principles of government and of human rights are thus announced in these treaties in the most direct and unambiguous terms. So far as the protection of those rights is concerned, there was no provision up to this point in the treaties which would give us any more sanction for the protection of the rights of these minorities than that which was conferred in the Treaty of Berlin, by the assent of Roumania, and the other East European governments which were then established.

Of course, these treaties were entered into by great nations, most of which possessed noble traditions of liberty and justice and also had great power, but there was something more required than power and tradition. It was necessary in the case of these nations to do what every business man does when he enters into a contract with another, that is, to determine what remedies he will have if the obligations which have been entered into are not kept. Therefore we find Article 12, which ties the minority treaties to the World Court; and in accomplishing that a new departure in international law occurred by the creation of new principles, of new remedies, and of new methods of dealing between nations. Article 12 reads as follows:

> Poland agrees that the stipulations in the foregoing Articles, so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations.

In 1878, before this was done, Roumania said, "It is none of your business, England, France, Italy, Austria, Germany, what we do with our minorities. It is a matter of our own concern. We are dealing with our own people in our own country." But these treaties declare that it is a matter of international concern, and that these rights are to be placed under the guarantee of the League of Nations.

The article continues:

> They [these stipulations] shall not be modified without the assent of a majority of the Council of the League of Nations. The United States, the British Empire, France, Italy and Japan hereby agree not to withhold their assent from any modification in these articles which is in due form assented to by a majority of the Council of the League of Nations.
>
> Poland agrees that any member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

The right was thereby given to any nation that had a member in the Council or through a member to bring to the attention of the Council any infraction of the treaties.

> Poland further agrees that any difference of opinion as to questions of law or fact arising out of these Articles between the Polish Government and any one of the Principal Allied and Associated Powers or any other Power, a Member of the Council of the League of Nations, shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. The Polish Government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under Article 13 of the Covenant.

Here we have a tribunal which is to determine any controverted questions of fact or of law. We no longer are dependent upon the honesty or the good will of any particular nation. We have the international conscience at work, and we have a matter of international concern which is to be determined by an international court which proceeds not upon political considerations, but solely as a judicial tribunal upon considerations of law.

It has been asked what is meant by the phrase "an obligation of international concern." Why should the obligations of these treaties be placed under the guaranty of the League of Nations or the disputes regarding them referred "to the Permanent Court of International Justice?" To me, the answers are simple. It was the desire of those who were gathered at the Peace Conference and who were engaged in establishing new states and enlarging the boundaries of existing sovereignties by adding populations which had formerly belonged to other sovereignties, that nothing should be done that would produce new causes for friction and dissatisfaction, and that none of those who dwelt within the boundaries of these new and enlarged states should be subjected to hateful discriminations, persecution or oppression. It was with reason believed, judging from age-long experience, that it would be the tendency of those in the majority to dominate over those of other faiths, of varying racial origins and speaking different languages and who constituted numerical minorities. It was deemed inevitable that unless these minorities were assured equality of civil, political and religious rights with the majority, it would give rise not only to internal discord, but would create international enmities on the part of those who were racially, religiously and linguistically of kin to the minorities. These new and enlarged states had come to the Peace Conference urging the grant of sovereignty, or of increased territory within which resided not only a homogeneous majority but, likewise, various minorities whose inclusion was in many instances involuntary, as of Germans, Austrians, Jews, and Ukrainians in Poland, of Hungarians, Germans, Russians, and Jews in Roumania and of like accession in other countries. In order, therefore, to avoid what otherwise would have occasioned inevitable conflicts with and the resultant oppression of minorities and alarming disturbances of world peace, it was concluded not only that the Bill of Rights that conferred upon these minorities the accompanying grant of citizenship, to those who did not possess it, was to become the supreme law of these various sovereignties, but that the enjoyment of these rights was also to be guaranteed by the League of Nations. It did not, however, suffice to obtain from these new and expanded sovereignties promises and covenants that they would observe the obligations set forth in the treaties. That would only have amounted to a repetition of what had occurred in 1878. It is true that these minority treaties were couched in terms so clear that they could not be evaded, but it was within the range of possibility that they might nevertheless be deliberately disregarded. The question would then arise as to what could be done to enforce them. Was it to be left to the governments of these several states or to their own judicial tribunals to determine whether or not they had violated their own treaties? What would have been the status of these minorities, and whence would have come their protection against retaliation, had it been left to them to seek a remedy against their own sovereign in its tribunals? The futility of such a situation was at once apparent, and for that reason it was not only declared that the obligations of these treaties were not merely the concern of the members of the several minorities or of the countries in which these minorities lived, but it was agreed that it was a matter that concerned all the world; that it gave rise to an international problem over which the Council of the League of Nations itself, or through the Permanent Court of International Justice, was to exercise jurisdiction in the interests of universal peace as well as of humanity by taking cognizance of any actual or menaced violation of the treaty obligations. Such an infraction of the treaties thus became a matter of international concern in the same sense that the violation of the constitution of the United States by one of the states of the Union is a matter of national concern, as to which the Supreme Court of the United States has the power to adjudicate.

Since these treaties have been taken under the control of the League of Nations and since it has undertaken to carry out the guarantee which it has given that they shall be observed, there has grown up a procedure which is very liberal and has been admirably worked out by Signor Tittoni and Sir Gilbert Murray and others, who have given thought to the subject. Regulations have been adopted which liberalize the procedure, so that if any violation or threatened violation of the rights of a minority takes place, that minority itself, if it couches its complaint in respectful language, may file in the Secretariat at Geneva its complaint, with a statement of the facts. That complaint is thereupon submitted to a committee of the Council, and the subject is thoroughly investigated, and if it is found that there is merit in the complaint, it is then taken up by the Council for action, and if any question of fact or of law remains to be determined, those questions are submitted for determination to the World Court. Each of the parties is entitled to be heard. If desired, any nation which is concerned in the controversy is permitted to intervene in the court, so that no decision is reached until after the fullest hearing and consideration, and I repeat, every question is determined on its merits according to the principles of law and justice, and not, as too often happens, in arbitral bodies, according to political or other considerations.

There have been two cases before the World Court which illustrate the effectiveness of the treaties and the importance of that tribunal, which is the final judge as to whether or not the treaties have been observed. Those two cases are known as cases number 6 and number 7 of the advisory opinions of the court. They were decided in September, 1923. The parties in controversy were Germany, not even a member of the League of Nations, and Poland, and the rights which were sought to be protected were the rights of Germans who had lived in the territory which had been annexed to Poland by the operation of the Treaty of Versailles. I wish that I could read to you the opinions that were there rendered. They are worthy of the exalted tribunal which pronounced them.

The court considered the history of these treaties and the purpose sought to be accomplished and gave them a broad interpretation for the purpose of carrying out the salutary object which was in mind when these treaties were entered into. In each case the treaties were upheld and applied for the benefit of the minorities. In one case it was a matter of contract rights, in the other it related to rights of citizenship; but in each instance the interpretation given to the treaties was such as appeals to the sense of right and justice of every well-constituted man.

This is the test which has been applied. The court has indicated by its method of procedure how it will deal with matters arising under these treaties. It has given a reasonable interpretation to the language. It has avoided technicalities. It has determined each case upon its merits, and each case in conformity with proper rules of interpretation and established principles of international law.

If there ever was any doubt in our minds as to how this World Court would act, that doubt is entirely obviated by the manner in which that tribunal has acted in these two instances. When I say that the opinions that were rendered and the method of procedure and the method of approach of the court to the questions bear comparison with the finest traditions of the Supreme Court of the United States in its best period, I am giving it the highest praise that can be given to any human tribunal.

I therefore feel that the question which is now before the American people as to whether we shall participate in the World Court is one that can be determined, not in accordance with untried theories, but in accordance with actual experience. We know just exactly what kind of tribunal we have. People who were afraid of the advisory opinions, I think, will have to revise their ideas when they come to read the judgments rendered by the court in these cases. They indicate, to me at least, that the most valuable work done by the World Court is that connected with the rendition of its advisory opinions.

I hope that I have at least indicated to you that the treaties which have been discussed are of vital importance. As Mr. Colban, a distinguished member of the Secretariat in Geneva, who is not only a statesman but a genius and who has charge of the minorities bureau, said to me while I visited with him last summer: "The only thing that stands between destruction and thirty-five million human beings is these treaties." They are therefore worthy of preservation, support and protection.

I know that you will be anxious to learn more about the World Court, and I therefore take this opportunity to recommend to you a reading of Professor Hudson's book on *The Permanent Court of International Justice,* and the volume recently written by Mr. De Bustamente, one of the judges of the World Court, one of the great jurists of the western world, who represents Cuba, and who is a man whose writings and judgments indicate that he is gifted with a colossal intellect.

In conclusion, let me refer to a misconception which has from time to time prevailed in some circles as to the nature of these minority rights. It has been asked whether they do not create what is called an *imperium in imperio.* They do not, in any sense of the term. They merely write into the fundamental laws of the nations which have accepted the obligations of these treaties for the protection of their citizens, the same principles of equality before the law, of liberty of conscience, liberty of speech, liberty of the press, as are to be found in the constitution of the United States and of the several states of our Union. Their adoption here was not for the protection of those in the majority, but of those who are in the minority, as at times every individual citizen is, as contrasted with the entire population of the country. In East European countries, the existence of large minorities is only more evident than it is with us.

The most careful analysis of the terms of these treaties fails to disclose in them a single element which is not to be found in the American constitution, and in those of other countries whose organic law is in written form, nor do they differ from those well-known constitutional though unwritten principles formulated and enforced for the protection of the subjects of Great Britain. These minorities have not had conferred upon them autonomous governmental powers. They cannot legislate. They are not separated from the mass of the citizenry of the lands to which they owe allegiance. What have been guaranteed to them are the same individual rights that we cherish and which constitute our charter of liberties. It is a matter of life and death for the minorities of Eastern Europe that they shall be protected in the rights and liberties which have come to them through these treaties and which otherwise they would not have been given an opportunity to enjoy. The advantage that the nations to which these treaties apply will derive from a faithful observance of their provisions are not as yet fully appreciated, but it is inevitable that ere long they will prove an inestimable blessing to all of them. Such observance will foster mutual confidence and friendship among all their inhabitants and contribute to the creation and preservation of peace, unity and harmony as well as the growth of spiritual and material progress in all of these lands.

E

LETTER ADDRESSED TO M. PADEREWSKI BY GEORGES CLEMENCEAU, AS PRESIDENT OF THE PEACE CONFERENCE, TRANSMITTING TO HIM THE TREATY TO BE SIGNED BY POLAND UNDER ARTICLE 93 OF THE TREATY WITH GERMANY.[27]

PARIS, June 24, 1919

SIR:

On behalf of the Supreme Council of the Principal Allied and Associated Powers, I have the honor to communicate to you herewith, in its final form, the text of the Treaty, which, in accordance with Article 93 of the Treaty of Peace with Germany, Poland will be asked to sign on the occasion of the confirmation of her recognition as an independent State and of the transference to her of the territories included in the former German Empire which are assigned to her by the said Treaty. The principal provisions were communicated to the Polish Delegation in Paris in May last, and were subsequently communicated direct to the Polish Government through the French Minister at Warsaw. The Council have since had the advantage of the suggestions which you were good enough to convey to them in your memorandum of the 16th June, and as the result of a study of these suggestions modifications have been introduced in the text of the Treaty. The Council believe that it will be found that by these modifications the principal points to which attention was drawn in your memorandum have, in so far as they relate to specific provisions of the Treaty, been adequately covered.

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[27] Temperley's *History of the Peace Conference of Paris,* V. 432-7. This letter, in connection with the minority protective treaty with Poland which it elucidates and justifies, may well be characterized as the most important document ever penned in the history of religious liberty. Immediately after the execution of the Polish Treaty in question, Mr. Louis Marshall wrote a personal letter from Paris under date of June 30, 1919, to Judge Mack, who had been compelled to return to the United States before the treaty was fully drafted, in the course of which he said:

"By the time this letter reaches you, the news of the Polish treaty will have reached you. We are all delighted. There is not one dissenting voice among the members of our Committee. The letter of Clemenceau is a valuable aid to the interpretation of the document. . . . The covering letter, of Clemenceau has been published. It is highly important that it should. It is conciliatory, although it is at the same time firm in tone. The last sentence is a work of art, and sounds like the old Tiger. Both Paderewski and Dmowski signed for Poland. . . . We had anxious days. It was a fight down to the last minute. Poland, Roumania, Greece, Czecho-Slovakia and Jugo-Slavia combined on the theory that the treaties would constitute an invasion of their sovereign rights. I was in constant communication with the President, and was informed through several sources that he said that there was no occasion for anxiety. Hudson was a tower of strength. I shall be eternally grateful to him. We worked together constantly. . . . The other treaties will follow the Polish without a question."

In an editorial in the *American Journal of International Law* (Vol. XIV, pp. 392-396) by Prof. Theo. S. Woolsey on "The Rights of Minorities under the Treaty with Poland," published soon after the treaty was signed, it was well said that such provisions are "necessary to a stable and enduring future for the newly formed states" and "in accord with the conscience and sense of justice of the Allied and Associate Powers, rather than with their mere material interest. . . . I have spoken of the new spirit, but the new conscience is a better word. Let us hope that it will endure. . . . It is truly a complete change in the organization of the Society of Nations. To visualize it requires imagination and hopefulness. But the alternative is despair."

The editor of this book expressed similar views as to the importance of these minority protective clauses in an article on "Religious Liberty Guarantees at the Peace Conference" in the "American Law Review" for November-December 1920.

In formally communicating to you the final decision of the Principal Allied and Associated Powers in this matter, I should desire to take this opportunity of explaining in a more formal manner than has hitherto been done the considerations by which the Principal Allied and Associated Powers have been guided in dealing with the question.

1. In the first place, I would point out that this Treaty does not constitute any fresh departure. It has for long been the established procedure of the public law of Europe that when a State is created, or even when large accessions of territory are made to an established State, the joint and formal recognition by the Great Powers should be accompanied by the requirement that such State should, in the form of a binding international convention, undertake to comply with certain principles of government. This principle, for which there are numerous other precedents, received the most explicit sanction when, at the last great assembly of European Powers—the Congress of Berlin—the sovereignty and independence of Serbia, Montenegro, and Roumania were recognized. It is desirable to recall the words used on this occasion by the British, French, Italian, and German Plenipotentiaries, as recorded in the Protocol of the 28th June, 1878:

> Lord Salisbury recognises the independence of Serbia, but is of opinion that it would be desirable to stipulate in the Principality the great principle of religious liberty.
>
> . . . .
>
> Mr. Waddington believes that it is important to take advantage of this solemn opportunity to cause the principles of religious liberty to be affirmed by the representatives of Europe. His Excellency adds that Serbia, who claims to enter the European family on the same basis as other States, must previously recognise the principles which are the basis of social organisation in all States of Europe and accept them as a necessary condition of the favour which she asks for.
>
> . . . .
>
> Prince Bismarck, associating himself with the French proposal, declares that the assent of Germany is always assured to any motion favourable to religious liberty.
>
> . . . .
>
> Count de Launay says that, in the name of Italy, he desires to adhere to the principle of religious liberty, which forms one of the essential bases of the institutions of his country, and that he associates himself with the declarations made on this subject by Germany, France, and Great Britain.

> Count Andrassy expresses himself to the same effect, and the Ottoman Plenipotentiaries raise no objection.
>
> Prince Bismarck, after having summed up the results of the vote, declares that the Congress admits the independence of Serbia, but on condition that religious liberty will be recognised in the Principality. His Serene Highness adds that the Drafting Committee, when they formulate this decision, will affirm the connection established by the Conference between the proclamation of Serbian independence and the recognition of religious liberty.

2. The Principal Allied and Associated Powers are of opinion that they would be false to the responsibility which rests upon them, if on this occasion, they departed from what has become an established tradition. In this connection I must also recall to your consideration the fact that it is to the endeavors and sacrifices of the Powers in whose name I am addressing you that the Polish nation owes the recovery of its independence. It is by their decision that Polish sovereignty is being reëstablished over the territories in question and that the inhabitants of these territories are being incorporated in the Polish nation. It is on the support which resources of these Powers will afford to the League of Nations that, for the future, Poland will to a large extent depend for the secure possession of these territories. There rests, therefore, upon these Powers an obligation, which they cannot evade, to secure in the most permanent and solemn form guarantees for certain essential rights which will afford to the inhabitants the necessary protection, whatever changes may take place in the internal constitution of the Polish State.

It is in accordance with this obligation that Clause 93 was inserted in the Treaty of Peace with Germany. This clause relates only to Poland, but a similar clause applies the same principles to Czecho-Slovakia, and other clauses have been inserted in the Treaty of Peace with Austria and will be inserted in those with Hungary and with Bulgaria, under which similar obligations will be undertaken by other States, which under those Treaties receive large accessions of territory.

The consideration of these facts will be sufficient to show that by the requirements addressed to Poland at the time when it receives in the most solemn manner the joint recognition of the reëstablishment of its sovereignty and independence and when large accessions of territory are being assigned to it, no doubt is thrown upon the sincerity of the desire of the Polish Government and the Polish nation to maintain the general principles of justice and liberty. Any such doubt would be far from the intention of the Principal Allied and Associated Powers.

3. It is indeed true that the new Treaty differs in form from earlier Conventions dealing with similar matters. The change of form is a necessary consequence and an essential part of the new system of international relations which is now being built up by the establishment of the League of Nations. Under the older system the guarantee for the execution of

similar provisions was vested in the Great Powers. Experience has shown that this was in practice ineffective, and it was also open to the criticism that it might give to the Great Powers, either individually or in combination, a right to interfere in the internal constitution of the States affected which could be used for political purposes. Under the new system the guarantee is entrusted to the League of Nations. The clauses dealing with this guarantee have been carefully drafted so as to make it clear that Poland will not be in any way under the tutelage of those Powers who are signatories to the Treaty.

I should desire, moreover, to point out to you that provision has been inserted in the Treaty by which disputes arising out of its provisions may be brought before the Court of the League of Nations. In this way differences which might arise will be removed from the political sphere and placed in the hands of a judicial court, and it is hoped that thereby an impartial decision will be facilitated, while at the same time any danger of political interference by the Powers in the internal affairs of Poland will be avoided.

4. The particular provisions to which Poland and other States will be asked to adhere differ to some extent from those which were imposed on the new States at the Congress of Berlin. But the obligations imposed upon new States seeking recognition have at all times varied with the particular circumstances. The Kingdom of the United Netherlands in 1814 formally undertook precise obligations with regard to the Belgian provinces at the time annexed to the kingdom which formed an important restriction on the unlimited exercise of its sovereignty. It was determined at the establishment of the Kingdom of Greece that the Government of that State should take a particular form, viz., it should be both monarchical and constitutional; when Thessaly was annexed to Greece, it was stipulated that the lives, property, honor, religion and customs of those of the inhabitants of the localities ceded to Greece, who remained under the Hellenic administration, should be scrupulously respected, and that they should enjoy exactly the same civil and political rights as Hellenic subjects of origin. In addition, very precise stipulations were inserted safeguarding the interests of the Mohammedan population of these territories.

The situation with which the Powers have now to deal is new, and experience has shown that new provisions are necessary. The territories now being transferred both to Poland and to other States inevitably include a large population speaking languages and belonging to races different from that of the people with whom they will be incorporated. Unfortunately, the races have been estranged by long years of bitter hostility. It is believed that these populations will be more easily reconciled to their new position if they know that from the very beginning they have assured protection and adequate guarantees against any danger of unjust treatment or oppression. The very knowledge that these guarantees exist will, it is hoped, materially help the reconciliation which all desire, and will indeed do much to prevent the necessity of its enforcement.

5. To turn to the individual clauses of the present Treaty, Article 2 guarantees to all inhabitants those elementary rights, which are, as a matter of fact, secured in every civilized State. Clauses 3 to 6 are designed to insure that all the genuine residents in the territories now transferred to Polish sovereignty shall in fact be assured of the full privileges of citizenship. Articles 7 and 8, which are in accordance with precedent, provide against any discrimination against those Polish citizens, who, by their religion, their language, or their race, differ from the large mass of the Polish population. It is understood that, far from raising any objection to the matter of these articles, the Polish Government have already, of their own accord, declared their firm intention of basing their institutions on the cardinal principles enunciated therein.

The following articles are of rather a different nature, in that they provide more special privileges to certain groups of these minorities. In the final revision of these latter articles, the Powers have been impressed by the suggestions made in your memorandum of the 16th June, and the articles have in consequence been subjected to some material modifications. In the final text of the Treaty it has been made clear that the special privileges accorded in Article 9 are extended to Polish citizens of German speech only in such parts of Poland as are, by the Treaty with Germany, transferred from Germany to Poland. Germans in other parts of Poland will be unable under this article to claim to avail themselves of these privileges. They will, therefore, in this matter be dependent solely on the generosity of the Polish Government, and will, in fact, be in the same position as German citizens of Polish speech in Germany.

6. Clauses 10 and 12 deal specifically with the Jewish citizens of Poland. The information at the disposal of the Principal Allied and Associated Powers as to the existing relations between the Jews and the other Polish citizens has led them to the conclusion that, in view of the historical development of the Jewish question and the great animosity aroused by it, special protection is necessary for the Jews in Poland. These clauses have been limited to the minimum which seems necessary under the circumstances of the present day, viz., the maintenance of Jewish schools and the protection of the Jews in the religious observance of their Sabbath. It is believed that these stipulations will not create any obstacle to the political unity of Poland. They do not constitute any recognition of the Jews as a separate political community within the Polish State. The educational provisions contain nothing beyond what is in fact provided in the educational institutions of many highly organized modern States. There is nothing inconsistent with the sovereignty of the State in recognizing and supporting schools in which children shall be brought up in the religious influences to which they are accustomed in their home. Ample safeguards against any use of non-Polish languages to encourage

a spirit of national separation have been provided in the express acknowledgment that the provisions of this Treaty do not prevent the Polish State from making the Polish language obligatory in all its schools and educational institutions.

7. The economic clauses contained in Chapter II of the Treaty have been drafted with the view of facilitating the establishment of equitable commercial relations between independent Poland and the other Allied and Associated Powers. They include provisions for reciprocal diplomatic and consular representation, for freedom of transit, and for the adhesion of the Polish Government to certain international conventions.

In these clauses the Principal Allied and Associated Powers have not been actuated by any desire to secure for themselves special commercial advantages. It will be observed that the rights accorded to them by these clauses are extended equally to all States who are members of the League of Nations. Some of the provisions are of a transitional character, and have been introduced only with the necessary object of bridging over the short interval which must elapse before general regulations can be established by Poland herself or by commercial treaties or general conventions approved by the League of Nations.

In conclusion, I am to express to you, on behalf of the Allied and Associated Powers, the very sincere satisfaction which they feel at the reëstablishment of Poland as an independent State. They cordially welcome the Polish nation on its reëntry into the family of nations. They recall the great services which the ancient Kingdom of Poland rendered to Europe both in public affairs and by its contributions to the progress of mankind, which is the common work of all civilized nations. They believe that the voice of Poland will add to the wisdom of their common deliberations in the cause of peace and harmony, that its influence will be used to further the spirit of liberty and justice, both in internal and external affairs, and that thereby it will help in the work of reconciliation between the nations which, with the conclusion of Peace, will be the common task of humanity.

The Treaty by which Poland solemnly declares before the world her determination to maintain the principles of justice, liberty, and toleration, which were the guiding spirit of the ancient Kingdom of Poland, and also receives in its most explicit and binding form the confirmation of her restoration to the family of independent nations, will be signed by Poland and by the Principal Allied and Associated Powers on the occasion of, and at the same time as, the signature of the Treaty of Peace with Germany.

I have, etc.,

CLEMENCEAU

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THE ORIGIN OF THE MINORITY PROVISIONS OF THE PEACE TREATY OF 1919

THE minority protective clauses of the treaties that terminated the World War are of extraordinarily great importance, and their form is novel and significant; scarcely anyone realized at the time they were adopted how important they were to become, and how epochal in world relationship. As will appear more fully hereafter, they were adopted chiefly through the efforts of President Wilson and Colonel House, and their advisers of the American delegation, David Hunter Miller and Prof. Manley O. Hudson, induced so to do chiefly by the American Jewish delegation, at whose helm stood the late Louis Marshall and Judge Julian W. Mack, who materially aided in their drafting. The other three members of the Council of Four, Lloyd George, Clemenceau and Orlando, lent them their support at an early date, with the coöperation of their own aides, Mr. Headlam-Morley, M. Philippe Berthelot and Signor Martino, as well as of Lord Robert Cecil and Mr. Adatci of Japan, who were in turn interested therein chiefly by leading Jews of England and France.

Strangely enough, scarcely any details have thus far been published concerning the real history of the adoption of these provisions, and it is my privilege, in setting forth their history, to draw heavily not merely on published, but still more on unpublished material, including the invaluable privately printed twenty-one volumes constituting the diary of David Hunter Miller (chief legal adviser of the American peace delegation and leading member of the Committee on New States), with accompanying documents, entitled *My Diary at the Conference of Paris,* the files of his aide and successor, Prof. Manley O. Hudson, the unprinted diary for the same period kept by Dr. Cyrus Adler, representative of the American Jewish Committee at the Peace Conference, also rich in documents, and the valuable files of Judge Mack, Oscar S. Straus, and Henry Morgenthau. It seems appropriate to have this narrative appear in a volume dedicated to the memory of Louis Marshall, in whose important career their adoption was probably the chief event.

In stressing the debt the world owes to President Wilson for their adoption, we must remember, what was true also of the Covenant of the League of Nations, that these two epochal accomplishments of the Peace Conference were due chiefly to his espousal of them, as the heads of the other great powers were primarily occupied with measures for the material gain, in territory and rights, of their own individual countries, claimed by them under selfish secret treaties, and for reparations from Germany, and had little time to devote to disinterested measures for world advancement in general. As President Wilson himself said to his staff of advisers on December 10, 1918, as his ship approached France on its way to the conference: "We will be the only disinterested people at the Peace Conference." [28] This is true notwithstanding the fact that as to the minorities treaties, President Wilson himself wrote to Mr. Marshall on May 19, 1919, with particular reference to the attitude of the "Big Four" as to proposed inclusion of a Saturday Sabbath clause in the Polish treaty: "I think I can assure you that all four of the group with whom I am consulting are equally desirous of seeing genuine guarantees secured for Jewish minorities." Nor without President Wilson's guiding hand would minority protective treaty clauses have been signed, despite Clemenceau's invocation, November 29, 1918, "of the great principles leading to justice, morality and liberty, which would be proclaimed at the very opening, right of self-determination of the peoples, rights of the minorities" (W. S. Churchill, *The Aftermath,* pp. 115-116). The same is true of David Lloyd George's recognition of the problems of the minorities in his famous paper of March 25, 1919, entitled "Some Considerations for the Peace Conference Before They Finally Draft Their Terms," in which he declared that "I would therefore take as a guiding principle of the peace, that, as far as is humanly possible, the different races should be allocated to their motherlands, and that this human criterion should have precedence over considerations of strategy or economics or communications, which can usually be adjusted by other means" (*Ibid.,* pp. 193-197).

At the time of the Peace Conference, oppression of racial and linguistic, as distinguished from religious, minorities had attracted little attention; it was the sweeping changes in boundaries, and the setting up of new and enlarged states, and economic distress, which made the protection of linguistic minorities such a serious need. This was well pointed out by Prof. Gilbert Murray, one of the draftsmen of the forerunners of the "Covenant," and probably our best authority on minority questions, when he said, in the introduction to L. P. Mair's *The Protection of Minorities* (1928):

> It is the war which has changed the situation, and turned the old discomfort into an acute and dangerous disease. . . . Drunk with the new wine of national freedom and burning with the patriotic enthusiasm which carried them through the terrible strain of the war, these new nations were not likely to show much consideration for the alien within their gates.

As to religious minorities, however, history tells a long tale of continuing persecution, and in passages appearing in prior papers herein, this fact, as it existed around 1919, is emphasized, notably in Part V of Professor Luzzatti's work, and in ex-President Taft's paper on Jewish persecution, as also in the quotation from President Eliot with respect to the two marked examples of religious persecution of the closing years of the nineteenth century, that of the Jews and the Armenians. In fact, these two instances were singled out by Senator Lodge in the United States Senate as requiring relief in debate on the proposed exemption of "religious refugees" from the literacy test of a new United States Immigration bill (*Congressional Record,* Vol. XLVIII, p. 5020), which finally became a law over President Wilson's veto in 1917, after the latter had vetoed it on a prior occasion, in 1915, in part because the exemption did not embrace political as well as religious refugees.[29] The poor Armenians had been almost annihilated in the war, and were weak and without influence at the Peace Conference. The Jews of the western world, however, bent their energies to secure final relief from persecution and discrimination through its action, and intentionally suggested terms broad enough to include racial and linguistic as well as religious minorities, not merely to defeat circumvention by anti-Semitic persecutors giving their actions the characterization "racial" instead of "religious," but because the Jewish watchword was "equal rights to protect all men in all lands." [30]

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[28] *Intimate Papers of Col. House,* edited by Prof. Seymour (hereafter called *House Papers*), Vol. IV, p. 280.

As regards the Jews, a long series of international congresses had been invoked by them to secure "equal rights," beginning with the Congress of Vienna in 1814-1815,[31] where partial relief had been afforded to them in later years largely through the efforts of the United States, while past experience made Jews particularly familiar with the evasive devices of their persecutors.

With particular reference to desired action at the Peace Conference, Jews became active toward that end early in the War. As early as April 7, 1915, President Wilson assured Mr. Simon Wolf, Chairman of the Board of Delegates of the Union of American Hebrew Congregations, of his deep interest in this cause, and on May 29, 1916, the President wrote to him to assure him of his "determination to do the right and possible thing at the right and feasible time with regard to the great interests you so eloquently allude to in your letter." [32] On November 18, 1918, he wrote to Reuben Fink, as representative of the American Union of Roumanian Jews "that he would have the Roumanian Jewish question very much in mind . . . in the making of peace," [33] and on the 28th of the same month he delivered an address before the Independent Order B'nai B'rith, in which he pointed out the serious difficulties involved, particularly with respect to the Jews, but stated that our intention must be "that every race shall have justice" at the Peace Conference.[34] Mr. Justice Louis D. Brandeis, the chief leader of the American Jewish Congress movement, more fully to be considered presently, had delivered a notable address on "Jewish Rights and the Congress" in New York on January 24, 1916, which was at once extensively circulated in pamphlet form, and it and other addresses and papers of his [included in Jacob de Haas' *Louis D. Brandeis, a Biographical Sketch with Special Reference to His Contributions to Jewish and Zionist History* (1929)], undoubtedly received careful attention from President Wilson, whose relations to Judge Brandeis were very close. In March, 1919, Hon. Henry Morgenthau, who had shortly before been United States Ambassador to Turkey and had served as chairman of the finance committee of the Democratic National Committee in the Wilson presidential campaigns of 1912 and 1916, announced at a public banquet that "President Wilson has assured us that full civil and religious rights would be granted to Jews everywhere," a statement based on a personal conference with him on the subject.[35] We will have occasion presently to consider further activities by Mr. Morgenthau in this matter. In answer to an appeal made by the "Central Conference of American Rabbis," J. C. Grew, Secretary of the American Delegation at the Peace Conference, wrote, under date of February 7, 1919, from Paris on behalf of the whole delegation, that "in conformity with the spirit of American institutions, it will be their pleasure to use their utmost endeavor to obtain for all peoples, equality of treatment in accordance with their determined rights, without regard to race or religious belief." [36]

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[29] This clause was drafted by Mr. Marshall with my coöperation, as shown in my brief in the United States Supreme Court in *Tod* vs. *Waldman* 266 U. S. 113, in which case it was applied to exempt a Jewish refugee from the Ukrainian pogrom at Proskurow of 1919 in an able opinion by Chief Justice Taft. It was also applied for the benefit of Armenians in *Johnson* vs. *Tertzag* 2 Fed. (2) 40 C. C. A.

[30] See *Proceedings of Adjourned Session of American Jewish Congress, Including Report of Commission to Peace Conference* (hereafter called American Jewish Congress Report), p. 138.

[31] See my *Jewish Rights at the Congresses of Vienna and Aix-la-Chapelle* (1918), hereinbefore summarized by Prof. Luzzatti, and Kohler and Wolf's *Jewish Disabilities in the Balkan States—American Contributions toward Their Removal, with Particular Reference to the Congress of Berlin* (1916), cited by him. See also my *Jewish Rights at International Congresses* (1917), reprinted from the *American Jewish Year Book* for 1917-1918, and Lucien Wolf's *Notes on the Diplomatic History of the Jewish Question* (London, 1919), all written for use at the Peace Conference as a collection of valuable precedents; my review of the last-cited work in the *Jewish Quarterly Review,* July, 1920; Prof. S. Baron's subsequently published work *Die Judenfrage auf dem Wiener Kongress* (1920), reviewed by me in the *Jewish Quarterly Review,* January, 1921; Prof. Charles K. Webster's *Congress of Vienna,* prepared by him for the British Government for use at the Peace Conference, and his able historical article on "Minorities" in the 14th ed. of the *Encyc. Britannica,* with companion descriptive article by P. de Azarate; also N. Leven's *Cinquante Ans d'Histoire-L'Alliance Israélite Universelle 1860-1910,* and Charles N. L. Emanuel's *A Century and a Half of Jewish History* (1910).

Scores of distinguished American governors, mayors, judges, and clergymen (including Cardinal Gibbons), joined in appeals to the American Peace Delegation,[37] and Jacob H. Schiff made a very vigorous and able plea for Peace Conference action in an address at Madison Square Garden, December 11, 1918, which was extensively reported next day in the *New York Times* and other newspapers, and attracted wide attention.

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[32] Wolf's *Presidents I Have Known,* pp. 422-424, 436-437.

[33] *American Hebrew,* New York, November 18, 1918.

[34] *Public Papers of Woodrow Wilson—War and Peace* edited by Baker and Dodd, Vol. I, pp. 306-307; also quoted in Feinberg's *La Question des minorities à la Conference de la Paix de 1919-1920 et 'L'action juive en faveur de la protection internationale des minorities* (Paris, 1929), p. 42 (hereafter cited as "Feinberg,") the largest work on the subject of Jewish rights at the Peace Conference heretofore issued.

[35] *American Hebrew,* March 14, 1919, and information received from Mr. Morgenthau.

[36] *Ibid.,* March 21, 1919.

[37] *Ibid.,* May 16, 1919.

In Adler's *Jacob H. Schiff—His Life and Letters* (Vol. II, pp. 296-307) his deep interest in the cause is demonstrated, and his belief in the importance of united action, though he always was firm in urging that "the efforts to mass our people into a separate (political) entity should not be encouraged, but on the contrary, should be discouraged in every possible manner," while emphasizing "our duty to use whatever influence we can exert as American Jews in favor of the betterment of our coreligionists abroad." Oscar S. Straus also approved of Mr. Marshall's vigorous emphasis on this need for concerted Jewish action.

In Feinberg's above-cited works (pp. 46ff., 68ff.) numerous general authorities on the history of the Peace Conference are cited to demonstrate the fact that these clauses owe their adoption to Jewish efforts, including Prof. Georges Scelle in P. Munch's work, Ph. Barker, Schücking and Wehberg, Ch. Dupuis, M. Gonsiorowski, Ray Stannard Baker, Temperley, and Manley O. Hudson, and to these can be added Edward J. Dillon's *Inside History of the Peace Conference* (p. 496ff.) and Prof. Charles K. Webster's article "Minorities" in the fourteenth edition of the *Encyclopædia Britannica.* There is however, no occasion to cite these secondary works here, as the above-mentioned diaries, the Hudson and Mack files, and the minutes of the Committee on New States leave absolutely no doubt on the point that American Jewish effort induced President Wilson and Col. House, with the active coöperation of Mr. Miller and Prof. Hudson, to effectuate their adoption. The coöperation of Mr. Headlam-Morley and of Lucien Wolf and of the *Alliance Israélite Universelle* were valuable contributing factors.

During the war three American Jewish organizations of a national character concerned themselves with the protection of the civil and religious rights of the Jews all over the world. The oldest of these, the Union of American Hebrew Congregations, was engaged in this work through a board, of which Hon. Simon Wolf was chairman, securing the assurances from President Wilson to Mr. Wolf hereinbefore referred to. In this organization Hon. Henry Morgenthau was active, as were also Hon. Julius Kahn, Dr. David Philipson, and Rabbi Landman, as well as the writer hereof, the latter having prepared the three collections of historical precedents for international protection of Jewish minorities for use at the Peace Conference hereinbefore referred to. The first, in conjunction with Mr. Simon Wolf, dealing particularly with the Balkan states and the Congress of Berlin, with an introduction by Dr. Cyrus Adler, was published by the American Jewish Historical Society in 1916, and the third in order of time, *Jewish Rights at the Congresses of Vienna and Aix-la-Chapelle,* appeared in 1918. Special editions of both of these were simultaneously issued by the American Jewish Committee (of which Louis Marshall was president and Jacob H. Schiff an active member), and at the instance of that committee the writer hereof prepared the further paper, published in 1917, on *Jewish Rights at International Congresses,* containing a more concise account of action in this cause at a larger number of international congresses. The value of such collections of precedents was forcibly illustrated when Secretary Lansing in 1918—who, being appealed to in the cause of Roumanian Jews by Mr. Marshall, had inquired how we could attempt thus to restrain our own allies at the Peace Conference—was promptly shown these collections of precedents by Mr. Marshall, demonstrating that such a course was established usage as to new states and newly enlarged states by the action of the powers since the union of the Netherlands and Belgium in 1814 and the Congress of Berlin of 1878. In 1919 Mr. Lucien Wolf of London published a valuable and still more comprehensive collection of such precedents on behalf of English Jewry for similar use, a work already cited several times herein as *Notes on the Diplomatic History of the Jewish Question.* All of these works were freely drawn upon by the Committee on New States, in drafting the above-quoted famous note, addressed by Clemenceau to Paderewski, dated June 24, 1919.

Meantime, however, a further American Jewish group, led by Justice Brandeis, Dr. Stephen S. Wise, Judge Mack, Nathan Straus, Jacob de Haas and Louis Lipsky, all deeply interested in the Zionist cause, decided to form a new organization to represent all American Jewry, if possible, at the Peace Conference, and disposed there to urge the claims of Zionism and Jewish nationalism, which did not appeal to a majority in the other organizations. It was contended by them that a more democratic organization, to which many thousands of American Jews could elect representatives, would have more influence than the two subsisting organizations, and they of course knew that the cause of Palestine as a Jewish national home would be promoted by such an organization, which ideal was more popular with the Jewish masses of Eastern Europe, who had not achieved and were not familiar with the blessings of equality of rights, such as were enjoyed in fact by the Jews of the United States, Great Britain, France, Belgium, Germany and Italy, for example. As the opportunity for Jewish emancipation at the Peace Conference was unique and invaluable, and conflicting demands and claims were likely seriously to jeopardize a cause dear to the hearts of all Jews, Mr. Marshall, Mr. Schiff, Judge Sulzberger, and their associates of the American Jewish Committee decided to coöperate with this newly organized American Jewish Congress on specified terms,[38] and Mr. Marshall went to the Peace Conference in 1919 as one of the latter's delegates, appointed at its Congress in December, 1918, undoubtedly impressed by the fact that the powers would not consent to grant more than equality of rights and cultural minority protection. Dr. Cyrus Adler accompanied Mr. Marshall as an independent delegate of the American Jewish Committee. The other delegates of the American Jewish Congress to attend the Paris Peace Conference were Judge Mack, Dr. Stephen S. Wise, Harry Cutler, B. L. Levinthal, Joseph Barondess, Jacob de Haas and N. Syrkin; B. G. Richards was secretary.

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[38] See *The Jewish Congress vs. the American Jewish Committee, A Complete Statement with the Correspondence between Louis D. Brandeis and Cyrus Adler, August, 1915, Report of Proceedings of the American Jewish Congress, Philadelphia, December, 1918;* Jacob de Haas' biography of Judge Brandeis, above cited; annual reports of the American Jewish Committee of 1916, 1917 and 1918 in *American Jewish Year Book* for 1917-1918, 1918-1919.

The Union of American Hebrew Congregations (representing particularly the Reform Jews of America), decided not to participate in the work of the American Jewish Congress; in fact a number of its leading members, through Mr. Henry Morgenthau, Congressman Julius Kahn, Dr. David Philipson, Rabbi Landman and others, lodged with the American Peace Delegation a statement of disapproval of a Palestinian Jewish state and against national Jewish rights, though urging equality of rights.[39] Besides opposing the plan of establishing a Jewish state in Palestine, this memorial recited:

> We rejoice in the avowed proposal of the Peace Conference to put into practical application the fundamental principles of democracy. That principle, which asserts equal rights for all citizens of a state, irrespective of creed and ethnic descent, should be applied in such a manner as to exclude segregation of any kind, be it nationalistic or other. Such segregation must inevitably create differences among the sections of the population of a country. Any such plan of segregation is necessarily reactionary in its tendency, undemocratic in spirit, and totally contrary to the practice of free government, especially as these are exemplified by our own country. We therefore strongly urge the abandonment of such a basis for the reorganization of any state.

Such was also the position, in substance, of the delegation of the Jews of the British Empire, composed of Sir Stuart M. Samuel, Claude G. Montefiore, H. S. Q. Henriques and Joseph Prag, with Lucien Wolf of London, secretary, as their active representative; [40] as also of the French and coöperating Jews, represented by the *Alliance Israélite Universelle,* with Messrs. Solomon Reinach, Blanck, See, Chief Rabbi Israel Levi, Prof. Netter, Sylain Levi and M. Bigart, secretary, as their representatives.[41] With the exception of national Jewish rights and political minority representation, these organizations made substantially the same representations as the American Jewish Congress and the representatives of Eastern European Jews, and the two latter delegations constituted themselves a *Comité des Délégations Juives* at Paris on March 25, 1919, to join forces during the sessions of the Peace

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[39] *All in a Lifetime,* by Henry Morgenthau (1922), pp. 248ff.; Rabbi Isaac Landman's series of articles, largely from Paris, in the *American Hebrew,* May 23, 1919, to July 4, 1919; *Ministères des Affaires Étrangêrs et de la Guerre. Recueil de documents Étranger. Supplément périodique aux bulletins de presse Étrangêres Paris, le 31 Juillet, 1919. No. 46: La question juive dèvant la Conférence de la Paix; Jewish Chronicle* (of London), February 21, 1919, pp. 16-17; Simon Wolf's *Presidents I Have Known.*

[40] The Peace Conference, Paris, 1919. *Report of the Delegation of the Jews of the British Empire on the Treaties of Versailles, Saint-Germain-en-Lage and Neuilly and the Annexed Minority Treaties* (1920, p. 116), hereafter called *British Jewish Report.*

[41] *Alliance Israélite Universelle. La Question juive devant le Conference de la Paix* (Paris, 1919), hereafter called *Alliance Report.*

Conference, since the adjournment of which representation of the American Jewish Committee has ceased.

Developments in connection with the war indicated that the cause of Jewish emancipation would have an opportunity for solution through international action, as never before. As the United States had entered into the war in 1917 in defense of civilization, it would itself be an influential member of the Peace Conference. Moreover, Russia had abolished racial and creed discriminations in 1917, as seen, and would not be their advocate at this Peace Conference, and, in fact, the Bolsheviki had isolated her, so that she would not participate in the conference at all. Poland and other countries were seeking recognition as states, and Roumania large extensions of territory, so that international conditions on behalf of their minorities fell within established precedents as to nearly all the European countries in which Jews were still persecuted or discriminated against, as such.

In connection with the demand for "national rights," it should be remembered that the American Jewish Congress used the phrase as referring to the "rights of a nationality," and sharply distinguished between "nation" and "nationality," though we will presently see that the phrase was differently understood by certain leaders of East European Jewry. Hence, no denial of obligations to the nations involved underlay the conception thus expressed by American Jewish Congress leaders. Judge Brandeis made this clear in an address delivered in June, 1915, on "The Jewish Problem: How To Solve It," [42] which was extensively reprinted. In the course of it he said:

> The new nationalism proclaims that each race or people, like each individual, has a right and duty to develop, and that only through such differentiated development will high civilization be attained. The difference between a nation and a nationality is clear; but it is not always observed. Likeness between members is the essence of nationality; but the members of a nation may be very different. A nation may be composed of many nationalities, as some of the most successful nations are. An instance of this is the British nation, with its division into English, Scotch, Welsh and Irish at home. . . . The false doctrine that nation and nationality must be made coextensive is the cause of some of our greatest tragedies.

The formula of its proposed "Bill of Rights" provisions for Eastern Europe, adopted by the American Jewish Congress in December, 1918, included a satisfactory definition of citizenship (so that Roumania, for instance, would no longer deny citizenship to Jews born within its territory who were not subjects of any other state), equality of civil, political and religious rights in every land, autonomous management of the religious, educational and charitable communal institutions of minorities in every land, provisions for the right to observe Saturday as Sabbath and exemption from Sunday law prohibitions, and also, much more questionably, a vague provision for "equal national rights" (as well as civil, political and religious rights) and for the establishment of the principle of minority political representation in the Eastern and Central European states involved. These last-named clauses American Jews would not have wanted for themselves, and they were doubtless inserted simply because it was believed that the Jews in the East European states involved, wanted them for themselves. In fact, however, it is quite certain that the majorities of Jews in some of the European states involved, like Roumania, for instance, did not want these rights, but had, on the contrary, clamored for equal rights for decades instead. In adopting this vague formula for all, the American Jewish Congress incidentally overruled the reports of some of its own committees. The writer, for instance, had served on its Roumanian Commission, and the report prepared for it by Prof. Feraru, by direction of its members, was inconsistent with such demands.[43] The "Report of Proceedings" of this session of the American Jewish Congress shows that this phrase was used in a narrow sense, and was purposely left vague, in the interests of harmony. At this Congress Hon. Nathan Straus, its temporary chairman, well said:

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[42] Jacob de Haas' *Louis D. Brandeis*, pp. 176ff.

> In the newly reordered world of liberty and justice, there shall be no room nor place for racial or national or religious animosity and intolerance. Even those who are not of our faith—all who recognize divine or human law—realize the justice of our case. Above all, the American Jewish Congress in the name of one hundred millions, will turn to the peoples which have just achieved their freedom and remind them that if they would have their freedom, they must free their own peoples. That liberation will not long remain the lot of peoples who prove themselves unfit to have it and unworthy to hold it.

Hon. Oscar S. Straus sent a message, in the course of which, urging solidarity, he recommended that it make its plea

> in accord with the Balfour and Wilson declarations to the Peace Congress for civil and religious equality in all lands for our oppressed and long-suffering brethren. To ask for more would be unreasonable—to be content with less would be cowardly. This is the cornerstone of the American system, and must be the basic foundation policy for the reconstructed world, in order that the victory in war may be translated into a lasting victory for a just and enduring peace.

Judge Mack, as presiding officer of the Congress, in the course of his inaugural address, said:

> A voice here and there, crying in the wilderness, may attempt to produce discord. The sublime harmony of the great chorus will

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[43] See Prof. Feraru's statement on the subject in the *American Hebrew* of December 27, 1918, as to general Roumanian Jewish disapproval, and Mr. Marshall's accompanying explanation.

> drown out the petty notes. The principles for which we stand are clearly enunciated in the call for this Congress. It is that there shall be secured to the Jews everywhere full and equal rights, that there shall be attained for the Jewish groups in those countries in which group rights are recognized and in which the Jews desire that recognition for themselves, equality with other groups.

Mr. Marshall said:

> Those who have the writing of the Treaty in charge must see to it that the pact which is made, the contract that is entered into, shall be self-effectuating, shall be enforceable by its signatories, and shall have behind it such sanctions as shall render it at all times an effective, irrepudiable instrument. . . . Again I say, *we* are not seated at the peace table. It is not within our power, or within our desire, to determine these political issues. Various new or expanded nations are about to be organized. The Jews constitute but a fraction of each of them. Their lot is with the people among whom they are to live. They can only insist, and I wish to repeat it over and over again, that if these nations, however few or numerous they may be, and however weak or powerful, are formed, then the Jews must be assured by those nations of every right in every way equal to those of any other inhabitant of the State in which they may dwell. That is the fundamental principle of justice and righteousness for which we must and for which we shall not cease to contend until time shall be no more.

The delegates to the Paris Peace Conference appointed at this American Jewish Congress were instructed to work for the adoption of the Bill of Rights quoted, and through Dr. Stephen S. Wise inquired of President Wilson at Paris when they could present a memorial, embodying these clauses to him, at a personal interview, but Dr. Wise cabled on January 14, 1919, that the President stated that he would prefer to see the delegation upon his expected return to Washington for a temporary visit. Accordingly Judge Mack, Mr. Marshall, Dr. Wise and Mr. Richards delayed their departure to Paris, and waited on the President at the White House on March 2, 1919, presenting to him two memorials, one relating to the Jews of Eastern Europe, and the other (outside the scope of this paper, except that it ought to be said that the President expressed hearty approval) relating to Palestine.[44] The matter was gone into fully with the President, and as to the rights of the Jews in Europe the President authorized the delegation to state that "it found the President, as always, sympathetic with the incontestable principle of the rights of the Jewish people everywhere to equality," to quote the committee's official report of May 30, 1920. Whether this did or did not mean that he was then already inclined to disapprove of the proposed "national rights" and "political minority representation" clauses, is a matter of inference, and varying inferences have

[44] See *American Jewish Congress Report,* pp. 30, 36-56.

been drawn by participants. Later on, as we shall see, he expressed himself unequivocally as opposed to them. The "Memorial" handed to the President March 2, 1919, by the sub-committee wisely qualified and limited the former clause, and explained the latter, as follows (pp. 43-44):

> The third provision is a practical adoption of the time-honored principles of liberty and equality enshrined in the Constitution of the United States and the Amendments thereto. Attention should, however, be called to the fact that, in addition to providing for equality of civil, political and religious rights, it is also asked that national rights shall be guaranteed. This calls for an explanation. By "national rights" are meant those which may be accorded in the respective States to the several racial groups which compose the population. Nothing is further removed from our purpose than to countenance the establishment of an *imperium in imperio*, nor do the racial groups to which we refer entertain such an idea. It is to be borne in mind that we are dealing with Eastern European conditions, not those which prevail in the United States or in England, France and Italy, where the populations are practically homogeneous, and where the term "national" has reference to a political, as distinguished from an ethnic unit. For the sake of illustration let us instance Galicia. Among other of the "national groups" of that territory, using the phrase according to its meaning in Galicia, are Poles, Ruthenians, and Jews. It is contended by some of these groups that they are entitled to certain rights, which may be called cultural or communal for want of a better term. It is their belief that the welfare of the State and the happiness of its people will be best promoted by the stimulation of the several racial cultures. It is not for us in the United States to determine the wisdom of that conception. It is one that has entered deeply into the consciousness of these several groups. If any of them is accorded national rights in the sense indicated, then every other group shall be equally entitled to enjoy the same character of national rights. Hence, were the Ruthenians, for instance, given such rights, then should the Jews desire similar rights, they should have them.
>
> Account must be taken of the newly formulated and intense desire of all of the various ethnic minorities in Eastern Europe to preserve their cultural identity. Lord Bryce has referred to that phenomenon. Practically all of the new and enlarged States which are to be organized will possess a number of such minorities. In the new Poland one-third of the population will be composed of Jews, Ruthenians, Lithuanians, Letts and Russians. The same is true of Ukrainia, Lithuania and Roumania. Most of the Jews of these lands share with their fellow-countrymen the desire for cultural autonomy, and the most advanced statesmen in these lands sympathize with this feeling and favor the granting of these rights.

> The principle of minority representation is incorporated in the Constitution of several of the States of the Union, and is to be found in the charters of many of our cities. In the new States to be formed in Eastern Europe the adoption of such a principle is important for the protection of the rights of minorities, which might otherwise be invaded by one of the preponderating groups which, by reason of its strength, might be tempted to disregard the rights of what would otherwise be a voiceless minority.

Meantime, however, the Peace Conference had for some time been in session in Paris, and considerable progress had been made, especially in framing the "Covenant of the League of Nations," in which President Wilson had long sought to introduce a minority protective provision. Apparently President Wilson's original intention had been to deal with the matter of religious and racial minorities in the Covenant, where it might even be made to bind all members of the League, and not merely in treaties binding new or enlarged states. This will explain why the "Fourteen Points" and the subsequent Points, on the basis of which Germany capitulated, contained no specific reference to protecting such minorities, though they did contain provisions for a "League of Nations," broad enough to have jurisdiction over this matter, particularly in Point IV of the Points of July 4, 1918,[45] which did not limit the proposed League exclusively to promoting desirable international relations. In Charles H. Haskins and Robert H. Lord's *Some Problems of the Peace Conference* (p. 15), Prof. Haskins made the interesting observation:

> Whenever you apply it, self-determination runs against minorities; Ireland has its Ulster, Bohemia its Germans, Poland its Germans and Lithuanians. . . . Some one remarked that there was need of a 15th point, the rights of minorities. The Conference found this out, and upon the newly established states of Eastern Europe, were imposed special treaties, safeguarding the rights of minority peoples, Jews, Germans, Russians, etc., whom past experience had shown to need such guarantees.

On the other hand, in the interesting address by Prof. Manley O. Hudson in House and Seymour's *What Really Happened at Paris* (1921), dealing with "The Protection of Minorities and Natives in Transferred Territories"—which despite its brevity is still the best treatment extant of that subject—Prof. Hudson pointed out (p. 204) that the address of January 8, 1919, containing the "Fourteen Points" went on to enunciate

> an evident principle [which] runs through the whole programme I have outlined. It is the principle of justice to all peoples and nationalities, and their right to live on equal terms of liberty and safety with one another, whether they be strong or weak,

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[45] Ray Stannard Baker's *Woodrow Wilson and World Settlement* (hereafter called "Baker"), Vol. III, p. 46.

thus recognizing the need of protection, not merely for nations, but for "nationalities and peoples." We have already seen that the need to protect religious minorities was repeatedly recognized before the Peace Conference met, both by representatives of religious minorities and by the President. Though not so frequently nor as clearly, protection of racial minorities was also occasionally emphasized as a need prior to those sessions, though both were ignored by the so-called American "Inquiry" of experts, from whose report a number of the "Fourteen Points" were derived. Racial minority protection was, for example, called for in Brailsford's *A League of Nations* (1917), in Ferrero's *Problems of Peace* (1919), pp. 274-278, in Smuts' *The League of Nations* (1918), in Ruyessen's *Principle of Nationality* (issued by *International Conciliation* in December, 1916, March, 1917, and September, 1917), and particularly ably in the program of the "League of Free Nations Association" of New York, under date of November 27, 1918 (*International Conciliation,* No. 134, pp. 43-44, entitled "A League of Nations"). In the original "Plan of Procedure" for the Peace Conference, submitted by the French Ambassador Jusserand to Secretary of State Lansing on November 29, 1918, there was a provision for commissions on Polish Affairs, Balkan Affairs, etc., and also for a "committee on Jewish Affairs" and a "committee on Public Law (free determination of the peoples, combined with the rights of the ethnical and religious minorities)," [46] but the two last named committees do not seem to have been appointed. Subsequently M. Tardieu, at Clemenceau's request, early in January, 1919, proposed a general plan of procedure, which included (Tardieu's *The Truth about the Treaty*, pp. 88-89) as "Guiding Principles"

> I h. The right of nations to self-determination, together with the right of minorities, and . . . II c. The rights of ethnical and religious minorities.

As the history of the minority protective and racial equality clauses intended to be inserted in the Covenant are so clearly and authoritatively set forth in David Hunter Miller's invaluable work *The Drafting of the Covenant*, references to that work will suffice herein, with little supplemental matter. In President Wilson's first (American) draft of the Covenant, prepared about the summer of 1918, he included an Article III (taken from Col. House's earlier draft (Article XX), guaranteeing to each power

> territorial integrity and political independence, subject however to such territorial modifications, if any, as may become necessary in the future by reason of changes in present racial conditions and aspirations, pursuant to the principle of self-determination, and as shall also be regarded by three-fourths of the Delegates as necessary and proper for the welfare of the peoples concerned, etc.[47]

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[46] Baker, Vol. III, p. 62.

[47] House, Vol. IV, p. 35; Miller's, *The Drafting of the Covenant,* Vol. II, p. 12.

This was undoubtedly designed to aid minority races, but it would not have served people scattered throughout particular countries, like the Jews, not constituting a majority in any large territorial district. Moreover Gen. Bliss criticized the provision as perhaps contemplating the possibility of the League being called upon to consider such questions as the independence of Ireland, of India, etc. (*Ibid.*, Vol. II, p. 94), and in his next draft President Wilson inserted in the guarantee the words "against external aggression," so that the clause no longer applied to internal racial trouble, and the further provision concerning proposed jurisdiction of the League over future changes of boundaries was also later omitted, to Col. House's regret; the provision ultimately became the famous Article X of the Covenant (*Ibid.*, Vol. I, pp. 48, 521, 70-71; Vol. II, p. 727). Mr. Miller's objection to the original phraseology also appears sound: "it would simply tend to legalize agitation in Eastern Europe for a future war," and would, moreover, it may be added, have tended to cause dissatisfied minorities to be prosecuted for treason, by encouraging them to negotiate with other states for their annexation thereto.

In President Wilson's second draft, prepared about January 10, 1919—and with Gen. Smuts' comment before him that the League ought to see that "there is no oppression of small racial minorities in the larger autonomies or administrations" (*Ibid.*, Vol. II, p. 36)—a new, supplemental, Agreement VI appeared, reading (*Ibid.*, Vol. II, p. 91):

> The League of Nations shall require all new States to bind themselves, as a condition precedent to their recognition as independent or autonomous States, to accord to all racial or national minorities within their several jurisdictions exactly the same treatment and security both in law and in fact, that is accorded the racial or national majority of their people.

Mr. Miller submitted a weighty contemporary comment upon this provision (*Ibid.*, Vol. II, p. 91), to this effect:

> The purpose of this Article is beneficent, but it is submitted that general treatment is impossible. Doubtless, equal religious and cultural privileges should be accorded in all cases, but it is impossible to suppose that all racial minorities can be entitled, for example, to have their languages used in official records. In the case of several small minorities in one country, this would be impracticable even locally. While no change in the Article is suggested, the thought is that it should be followed by additional and more specific provisions, varying according to the conditions not only in new States, but in some of the older ones, of which Bulgaria is an example.

As to its technical draftsmanship, moreover, the article was quite unsatisfactory, being limited to "new states," and curiously enough saying nothing about "religious" minorities, and providing no sanctions for violation. Under date of January 14, 1919, Mr. Miller wrote as to this clause:

"Stronger provisions for the protection of minorities were found in the Treaty of Berlin than are contained in this paper, and the massacres and cruelties of the generation following 1878 in Macedonia and other parts of the Turkish Empire are a witness to their efficiency" (*Diary,* Vol. I, p. 75). He also emphasized the absolute necessity of employing greater technical accuracy in drafting such an important state paper (*Ibid.,* p. 261).

In President Wilson's third draft of the Covenant, prepared about January 20, 1919, the above quotation again appears in substance as Supplemental Agreement VI, but a new Article VII appears, as follows. (Miller's *Drafting of the Covenant,* Vol. II, p. 105):

> Recognizing religious persecution and intolerance as fertile sources of war, the Powers signatory hereby agree, and the League of Nations shall exact from all new States, and all States seeking admission to it, the promise that they will make no law prohibiting or interfering with the free exercise of religion, and that they will in no way discriminate, either in law or in fact, against those who practice any particular creed, religion or belief, whose practices are not inconsistent with public order or public morals.

Mr. Miller drafted a comment at this time as follows: (*Ibid.,* Vol I, p. 53): "As the drawing of boundaries according to racial or social conditions is in many cases an impossibility, *protection of the rights of minorities and acceptance of such protection by minorities* constitute the only basis of enduring peace."

In an effort by Lord Eustace Percy to harmonize President Wilson's second draft with the British draft (based on one by Lord Robert Cecil), Lord Eustace Percy said as to Article VI (*Ibid.,* Vol. II, p. 129):

> It has been the intention of the British Draft to leave the question of racial or national minorities to be settled in the territorial treaties which are generally guaranteed by the League. This decision is based upon the fact that in some cases such minorities will demand a guarantee of *distinct* treatment in such matters as linguistic schools, while in others, they will demand the equal treatment guaranteed to them by this Article VI. Moreover, if, as may be hoped, some means can be found in the territorial treaties of committing the regulation of such questions to the joint action of the States immediately concerned e.g. by a standing Commission of such States under an impartial Chairman,—it is doubtful whether the intervention of the Great Powers, under the general provisions of the Covenant creating the League of Nations, would conduce to the smooth working of such "regional" Commissions. It seems better therefore to omit Article VI unless and until it becomes evident that it is impossible to deal with these questions adequately in the territorial treaties.
>
> Article VII is to a certain extent covered by a provision in the British Draft Convention regarding minorities. In regard to new

> and independent States, this is a matter of internal government which it is almost impossible for the League of Nations to supervise or enforce. It might therefore be better to omit this Article.

In the Miller *Diary* (Vol. IV, p. 177) under date of January 26, it is stated: "The British suggest the omission for the present of this Article (VI), until the specific provisions to be contained in the territorial treaties can be considered."

Accordingly, in the so-called Cecil-Miller draft of January 27, 1919 (Miller's *Drafting of the Covenant,* Vol. I, p. 60; Vol. II, p. 141), Article VI as to racial minorities was reserved, and Article VII as to religious minorities remained unchanged, and in the next, the so-called Hurst-Miller draft, the former was omitted and the latter remained substantially unchanged (*Ibid.,* Vol. I, p. 70), both to be restored, however, in President Wilson's so-called "Fourth Draft of February 2, 1919" (*Ibid.,* Vol. II, pp. 153-154).

Between February 3 and February 13, 1919, the Commission on the League of Nations (consisting finally of nineteen members), held ten meetings, devoted to drafting the Covenant, President Wilson being the chairman, and Col. House the other American member, the British Empire being represented by Lord Robert Cecil and General Smuts, France by M. Bourgeois and M. Larnaude, Italy by Mr. Orlando and Senator Scialoja, Japan by Baron Makino and Viscount Chinda, and Belgium, Brazil, China, Portugal, Serbia, Poland, Roumania, Greece and Czecho-Slovakia being represented by one member each. The Hurst-Miller draft was laid before the commission by the chairman as the basis of discussion, France and Italy submitting independent drafts of their own (*Ibid.,* Vol. I, pp. 130-131, Vol. II, p. 231); in this draft, as just pointed out, there was no minority protective clause other than a provision (Article XIX; *Ibid.,* Vol. II, p. 237) for religious liberty. This was broadened so as to be applicable to all states, and not merely to new and enlarged ones, and read as follows:

> The High Contracting Parties agree that they will make no law prohibiting or interfering with the free exercise of religion, and that they will in no way discriminate either in law or in fact, against those who practice any particular creed, religion or belief, whose practices are not inconsistent with public order or public morals.

Article IX (*Ibid.,* Vol. II, pp. 233-234) had a possible further bearing, inasmuch as it made it

> the friendly rights of each of the High Contracting Parties to draw the attention of the Body of Delegates or of the Executive Committee to any circumstances anywhere which threaten to disturb international peace or the good understanding between nations upon which peace depends.

At the session of the Commission on the League held on February 8, 1919, Article XIX came up for discussion (*Ibid.*, Vol. II, pp. 273-274), and it was at once apparent that there was considerable open, and still more hidden, difference of opinion as to its inclusion, though unanimity was declared to be necessary in this Commission. Lord Robert Cecil proposed to amend the wording, really weakening it, so as to make it read (*Ibid.*, Vol. II, pp. 273, 276):

> Recognizing religious persecution and intolerance as fertile sources of war, the High Contracting Parties agree that political unrest arising therefrom is a matter of concern to the League, and authorize the Executive Council whenever it is of opinion that the peace of the world is threatened by the illiberal action of the Government of any State towards the adherents of any particular creed, religion or belief, to make such representations or take such other steps as will put an end to the evil in question.

According to the official English minutes (*Ibid.*, Vol. II, p. 273), President Wilson explained that the motive of his article was the desire to prevent religious persecutions or wars in the future. Mr. Hymans, representing Belgium, feared that the word "intolerance" might be taken advantage of, and that it might be used to justify appeals to the League of Nations to give judgment on complaints by political parties against governments. Mr. Batalha Reis, representing Portugal, pointed out that whenever a state religion is disestablished, its adherents consider themselves as persecuted. Mr. Orlando stated that great care would have to be exercised in the wording of such an article, in order to avoid conflict with the constitution of certain states. Mr. Bourgeois called attention to the fact that the cases foreseen in this article had already been provided for in Article IX, and after further remarks by Mr. Batalha Reis, and by Mr. Venizelos (who made the point that the measures contemplated in Article IX should, of course, be decided unanimously), the question was referred to the Drafting Committee (which consisted of Larnaude, Lord Robert Cecil, Venizelos and Vesnitch). On February 10 the Drafting Committee's substitute for Article XIX was read, similar to Lord Robert Cecil's amendment (*Ibid.*, Vol. II, p. 283), but President Wilson offered a substitute, which was adopted, reading as follows: (*Ibid.*, Vol. II, pp. 282, 286-287):

> The High Contracting Parties agree that they will make no law prohibiting or interfering with the free exercise of religion, and they resolve that they will not permit the practice of any particular creed, religion or belief, whose practices are not inconsistent with public order or with public morals, to interfere with the life, liberty or pursuit of happiness of their people.

M. Bourgeois, on behalf of France, advocated this substitute, saying that "this only confirms the principle laid down in our declaration of the Rights of Man: 'No one shall be persecuted because of his opinions or beliefs.' " M. Larnaude remarked that the Covenant embraced many things which in the beginning did not seem to be a part of the program of the League of Nations.

The next day the whole draft was referred back to the Drafting Committee, which reported on February 13 as to this article (*Ibid.,* Vol. II, p. 307): "The Committee felt that, in view of the complications of the question, it would be preferable to omit the article altogether. If, however, there is a strong feeling in the Commission that some such provision should be inserted, they suggest the following drafting:

> The High Contracting Parties agree that they will not prohibit or interfere with the free exercise of any creed, religion or belief, whose practices are not inconsistent with public order or public morals, and that no person within their respective jurisdiction shall be molested in life, liberty or the pursuit of happiness by reason of his adherence to any such creed, religion or belief.

This was scarcely an improvement, for, although it slightly enlarged the first part of the clause, it materially narrowed and limited the more important concluding provision. The article now became Article XXI in the new draft, and was thus phrased by the Drafting Commission, though the British had suggested a new, weaker, phrasing in the Preamble to the Covenant, to wit (*Ibid.,* Vol. I, p. 218):

> They unite in a solemn recognition of the principle of freedom of conscience and religion.

This article came up for consideration before the commission on February 13, when President Wilson was prevented from attending, because of a conflicting meeting of the Council of Ten. According to the official minutes (*Ibid.,* Vol. II, pp. 323-325), when Lord Robert Cecil, who presided, read this article, Col. House mentioned the importance which President Wilson attached to this clause. M. Larnaude, the French delegate, stated that, while appreciating the importance which might attach to a proclamation of the inviolability of the human conscience and the exercise of religion, nevertheless he thought it difficult to include a clause in the matter. In any case, he said, the anxieties of President Wilson related to countries which were not members of the actual League—an unwarranted assumption. The Japanese delegation, through Baron Makino, thereupon offered the so-called Japanese "equality" clause as an amendment to this article, stating that "matters of religion and race could well go together," reading:

> The equality of nations being a basic principle of the League of Nations, the High Contracting Parties agree to accord as soon as possible, to all alien nationals of States members of the League, equal and just treatment in every respect, making no distinction either in law or fact, on account of their race or nationality.

Space does not permit incorporating herein Baron Makino's carefully prepared statement in support of this amendment, in the course of which he recognized the difficulties involved in accepting the same, and stated that immediate application of the principle was not expected; nor the detailed discussion of it. Lord Robert Cecil thereupon referred to this provision as a matter of a highly controversial character, "having in mind Australian and other British and American anti-Asiatic immigration and naturalization law discriminations, and asked for a postponement of its consideration in spite of the nobility of thought which inspired the mover." Mr. Wellington Koo, on behalf of China, expressed sympathy for the amendment, as did also Mr. Venizelos, though he and others also favored postponing action. According to the official English minutes, Col. House then stated that he would inform President Wilson of the opinion of the commission on this matter, and that in any case he would reserve the right of the President to raise the question at the Conference; the minutes then add that with this reservation, this Article XXI was then dropped from the Covenant.

Mr. Miller's work (*Ibid.,* Vol. I, pp. 243, 267-269) contains what he describes as a more accurate account of this session than these minutes, a translation of stenographic reports of the discussion, according to which Col. House's introductory statement had been that "President Wilson strongly desires the inclusion of this article in the text." There M. Larnaude concluded with the statement that in view of President Wilson's insistence, he was unwilling to demand abrogation of the clause; a view which Lord Robert Cecil also gave expression to. M. Reis, on behalf of Portugal, launched forth into an expression of sympathy for Russia in her persecution of her Jews. It was then that the Japanese amendment was offered. Mr. Miller's work also shows that the only states that favored its adoption at this time were Brazil, China and Roumania, and that America's consent to dropping the article from the League was given after the session adjourned (not during it), when Col. House reported to President Wilson what had occurred.

The Intimate Papers of Col. House throw considerable additional light on Japan's attitude in this matter. It appears that as early as February 4, the Japanese delegates conferred with Col. House about a proposed "racial equality amendment" (Vol. IV, pp. 309-315), and were told by him that racial prejudice existed among Western people against each other, too, and was one of the various causes of international trouble. They had prepared two drafts; one, which they wanted, was wholly unacceptable; another, a compromise draft, President Wilson and Col. House thought might do, with a slight change, which they suggested, and Viscount Chinda thought it might be acceptable, but his associates were not satisfied, and a substitute which he next brought to Col. House was described by him as unacceptable to the United States and the British colonies. The Japanese delegation were not free agents in the matter, instructions from home being controlling upon them, and they went so far as to intimate that inclusion of a satisfactory racial equality provision in the Covenant was a *sine qua non* of Japan's joining the League. Col. House, after some time, referred them to the British delegation, as every solution he proposed was rejected by Hughes, the Australian delegate, who was the stumbling block. With the knowledge that it could not be accepted, the Japanese delegates submitted at the Conference the amendment offered (which was more sweeping than the compromise clauses), in order to justify their actions at home. Col. House's papers show that Japan advisedly offered her clause as an amendment to the religious liberty provision, and that Baron Makino very unreasonably insisted upon the race clause going in, if the religious liberty provision was retained, and, on the other hand, agreed temporarily to withdraw the race provision, if the religious liberty provision were withdrawn, which accounted for President Wilson and Col. House's course.[48]

Strangely enough, Mr. Miller in his *Drafting of the Covenant* (Vol. I, p. 269), remarks as to the Japanese proposal that it "served a good purpose at the meeting, for it helped to make impossible any article on religious liberty in any form; any such article in the Covenant would have been most dangerous and perhaps fatal to the League; the subject was never again considered." This seems to be an extreme statement, though it is doubtless true that the great powers were not disposed lightly to restrain their own sovereign rights with respect to a matter which was academic as far as breaches by them were concerned, and so far adoption of such clauses had been confined to cases of recognition of new states, or where material augmentations of territory occurred. In fact, efforts to induce the League of Nations to adopt a general minority protective provision, applicable to all members, have since also failed, despite Lithuania's efforts in 1925 to that end, though in September, 1922, a resolution was adopted by the League, reading:

> The Assembly expresses the hope that the States which are not bound by any legal obligation to the League with respect to minorities will nevertheless observe in the treatment of their own racial, religious or linguistic minorities at least as high a standard of justice and toleration as is required by any of the treaties and by the regular action of the Council.[49]

Prof. Gilbert Murray in his introduction to Mair's *Protection of Minorities* (p. 7) says: "It was an error of principle in the Peace Treaties . . . to impose the clauses upon the new states alone. The same obligation should have been accepted by the Great Powers, and made part of the common law of Europe."

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[48] In the course of an interesting series of articles in the *American Hebrew*, running from May 23 to July 4, 1919, Rabbi Isaac Landman describes the situation at the Peace Conference as to insertion of a religious liberty clause in the Covenant, including efforts of his own to that end. He states that some minor members of the Japanese delegation informed him that they did not object to the inclusion of such a clause, even if their efforts to secure a racial equality clause failed, but Col. House's narrative as to Baron Makino's own statements to him to the contrary is much more authoritative.

[49] Articles on "Minorities" in the *Encyclopædia Britannica*, Vol. XV, by Prof. C. K. Webster and P. de Azarate, and bibliography.

In fact, the Covenant, in Article XXII as to "Mandates" over colonies and territories less advanced, provides for "administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals."

There was, naturally, deep disappointment in many quarters over the omission of a religious liberty clause applicable to new and enlarged states, particularly on the part of people who did not know of the purpose to deal with the question in special treaties, and the inside history was not generally known, leading to further misunderstanding. Among the strongest advocates of action by the Peace Conference on the subject was ex-President Taft, and two vigorous pleas of his in this cause are reprinted in the volume *Taft Papers on League of Nations,* one entitled "The League of Nations and Religious Liberty" (pp. 166-168), an article that appeared originally in the *Public Ledger* of December 17, 1918 (and many reprints), the other, entitled "Religious and Racial Freedom" (pp. 309-311, published April 24, 1919), urging that such minority treaties be drafted as were actually signed thereafter, despite the omission of the clause from the Covenant in consequence of Japan's course.

It should be remembered that ex-President Taft, President Lowell of Harvard, ex-Attorney General Wickersham, President Butler of Columbia, and others, were leading spirits in the "League to Enforce Peace," the leading American organization which promoted the League of Nations project. Hon. Oscar S. Straus, Hamilton Holt and Arthur K. Kuhn went abroad during the Peace Conference to promote this plan, and a conference of this and related European organizations was held in London, March 11-13, 1919, in the interest of this cause, called "Interallied Associations for a League of Nations." The British "League of Nations Association" was represented at this conference by Sir Edward Grey, its president, Lord Bryce, Lord Shaw, Sir W. H. Dickenson, Prof. Murray, J. H. Thomas and others; France by Leon Bourgeois, Baron d'Estournelles de Constant and others, and Venizelos was one of the Greek representatives. Mr. Straus offered a resolution which was unanimously adopted, after some discussion, reading:

> The High Contracting Parties, realizing that religious discriminations give rise to internal dissatisfaction and unrest which militate against international concord, agree to secure and maintain in their respective countries, as well as in states and territories under the tutelage of other States acting as mandatories on behalf of the League, the free exercise of religion as well as freedom from civil and political discrimination because of adherence to any creed, religion or belief not inconsistent with public order or with public morals.

Mr. Straus submitted this resolution to President Wilson on March 24, a few days after his return from America, and the President replied, saying: "I am indeed interested in a religious liberty article in the Covenant, but am trying to reach the matter in another way," doubtless referring to the minority rights treaties subsequently drafted and signed.[50]

The high character and great influence of the delegates who attended this conference doubtless greatly strengthened the movement for the protection of religious minorities by their unanimous action. It is interesting to note that Venizelos (who attended this conference), at first opposed adoption of the resolution, fearing that its presentation would revive the Japanese equality issue, though he stated that he personally favored it. Mr. Cheng, however, a delegate of the Chinese League of Nations Association, interposed, pointing out that the Asiatic question in America was economic more than racial, and that it would be very regrettable if a religious liberty clause were omitted (which met with general approval), because of the impossibility of also enacting a racial equality provision, which he personally favored equally but as to which there was some opposition. This argument was so persuasive that Mr. Straus' resolution was unanimously adopted.[51]

The Japanese made a further effort at the reconvened sessions of the Commission on the League of Nations of the Peace Conference, to secure adoption of a mild anti-racial-discriminatory provision. On April 11, 1919, they offered an amendment to the preamble of the Covenant, to make it read: (*Framing of the Covenant,* Vol. I, pp. 461-466; Vol. II, pp. 387-392):

> The High Contracting Powers, in order to promote international coöperation and to establish international peace and security . . . by the prescription of open, just and honorable relations between nations *by the endorsement of the principle of equality of nations and just treatment of their nationals,* etc.

Lord Robert Cecil refused to accept the amendment, under instructions from his government (though it was obvious that he personally approved of the amendment), saying:

> either the points which the Japanese Delegation proposed to add to the Preamble were vague and ineffective, or else they were of practical significance. In the latter case, they opened the door to serious controversy and to interference in the domestic affairs of States, members of the League. There were a great many things which the States themselves ought to do, but these were not included in the Preamble.

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[50] Oscar S. Straus *Under Four Administrations,* pp. 414-417. Miller's *Diary,* Vol. I, p. 154, and Doc. 462.

[51] Arthur K. Kuhn on "Religious Liberty at the Peace Conference" in *Menorah Journal,* Vol. V, April, 1919, pp. 78-81; also his article in *American Hebrew,* April 18, 1919; *League of Nations Journal and Monthly Report,* April, 1919, pp. 144ff.; *Proceedings of the Conferences of Delegates of Allied Societies for a League of Nations* held in London, March 11-13, 1919, published by the British "League of Nations Union."

> For example, it had been found impossible to include in the text, matters so unquestionably right as those of religious liberty.

Besides Baron Makino's able and carefully prepared statement in favor of the amendment, arguments for it were made by Viscount Chinda, Orlando, Bourgeois, Larnaude, Venizelos, Kramar and Koo. In the discussion Orlando referred to the earlier religious liberty amendment as proclaiming the most important of all liberties. But, as Col. House wrote at the time: "The trouble is that if this Commission should pass it, it would surely raise the race issue throughout the world." President Wilson, in the discussion, frankly described the trouble to be the agitation that would result elsewhere from the adoption of the clause. Japan asked for a vote, and 11 out of 17 voted in favor, but President Wilson declared the amendment lost, ruling that unanimity was necessary as to the Covenant. The *Intimate Papers of Col. House* (Vol. IV, pp. 413-415, 428-430) show that Mr. Hughes, representing Australia, would not consent, and threatened to bring the matter up at the Plenary Conference, if passed, and to stir up the British Dominions and the western part of the United States on the immigration issue. The United States delegation, as well as Gen. Smuts, had stated that they would approve of this mild clause if Mr. Hughes could be won over, but he was recalcitrant. It should not be forgotten that objections at home compelled President Wilson himself to introduce an amendment into Article XV, Paragraph 18 of the Covenant, excepting from the jurisdiction of the League of Nations "a matter which by international law is solely within domestic jurisdiction," and in view of this, as we will presently see, the minority treaties expressly characterize an infraction as a "matter of international concern."

It should be remembered that Germany in her Proposals as to the Peace Treaty draft submitted to her, asked on May 29, 1919, for minority protective clauses (*International Conciliation*, October, 1919, No. 143), and in the reply of the Allies, dated June 16, 1919 (*Ibid.*, November, 1919, No. 144, p. 21), they stated that they

> are prepared to accord guarantees under the protection of the League of Nations, for the educational, religious and cultural rights of German minorities in territories transferred from the German Empire to the new states created by treaty. They take note of the statement of the German Delegates that Germany is determined to treat foreign minorities within her territory according to the same principles.

In fact, in the Peace of Bucharest of May 7, 1918, between the Central Powers and Roumania, Chapter VII had dealt with "Equality of Religions in Roumania," as follows:

> Article 27. Equal freedom is granted in Roumania to the Roman Catholics, to the United Greek, to the Bulgarian Orthodox, to the Protestant, to the Mussulman and to the Jewish faiths, and each shall

> receive the same juridical and official protection as that accorded the Roumanian Orthodox faith. Especially they shall have the right to establish parishes or communities of faith, as well as schools, which are to be regarded as private schools and may not be interfered with, except in the case of a violation of the national security or of public order. In all private and public schools, the pupils may not be compelled to attend religious instruction, unless it is given by an authorized teacher of their faith.
>
> Article 28. The difference in religious faith must not exercise in Roumania any influence over the status of the inhabitants from the viewpoint of their rights, especially as regards their political and civil rights. The principle expressed in paragraph 1 (nationality clause, with right of option and emigration) will likewise be applicable so far as concerns the naturalization of the population of Roumania without nationality, inclusive of the Jews, hitherto regarded as aliens. To that end, there will be decreed in Roumania, up to the time of the ratification of the peace treaty, a law according to which all persons without nationality who have taken part in the war, entered in the active military service or in the auxiliary service, or who are born in the country and are settled there and whose parents were there born, shall be regarded forthwith as Roumanian nationals, with all the rights as such, and may have themselves registered as such in the courts; the acquisition of Roumanian nationality will likewise extend to the married woman, the widows and minor children (from *Texts of the Roumanian Peace,* United States State Department, 1918, pp. 28-29).

Going back, however, to the arrival in Paris of the delegates of the American Jewish Congress, who had previously conferred with President Wilson in Washington on March 2, 1919, when Mr. Marshall and Dr. Adler arrived in Paris on March 27 irreconcilable differences, utter discord and friction prevailed between two sets of Jewish delegations, those from England and the French constituting one group, and those from the United States and Eastern Europe another, the latter having shortly before selected Judge Mack as chairman of the so-called *Comité des Délégations Juives.* This was based in part on the ground that the French and British Jewish delegations had submitted their Memorials to the Peace Conference on February 21, dated respectively February 20, 1919, and February 21, 1919, without waiting for action by the others, after notifying them that they could not accept the responsibility of delaying action further and, as already observed, they did not ask for national Jewish rights or minority representation.[52]

The influence of these delegations—especially in view of the star-chamber proceedings being pursued by the Peace Conference commissions—was so slight, however, that early in April it was discovered both by them and by Mr. Marshall that the Roumanian commission of the Conference had drawn up treaty clauses approved by the Superior Territorial Commission for submission to the Supreme Council, which were not only without any sanction to make them effective, but were subject to practically all the discovered naturalization defects of the Treaty of Berlin clauses.[53] A probable factor in inducing the drafting of such unsatisfactory clauses was the circumstance that Roumania had drawn up an unconstitutional, make-believe decree authorizing Jewish naturalization on paper, and on the basis thereof had induced all the foreign embassies at her capital to telegraph to their own countries on January 14, 1919, stating that "the Jewish question in Roumania had been thereby solved from a legal viewpoint" (Miller's *Diary*, Vol. I, p. 82; Vol. III, Doc. 188). Mr. Wolf thereupon addressed a communication of protest to the Peace Conference,[54] while Mr. Marshall, in addition to pursuing such course, conferred with Col. House with a view to having this Commission reconvened, to revise its work. Instead of doing this, however, Col. House arranged that the important modifications which Mr. Marshall and Judge Mack had in mind should be directly taken up by them with the legal advisers of the United States peace delegation, pointing out that it was doubtful if such reports as the one undergoing criticism would ever be taken up by the Supreme Council unless called for by the United States delegation, and from that time on Mr. Marshall—and also Judge Mack until he left Paris—coöperated directly with the legal advisers of the American delegation, Mr. Miller and Prof. Hudson, in the draftsmanship of the minority protective treaty clauses, as well as with Col. House and the President on occasion.

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[52] *British Jewish Report,* pp. 22; 77-80; *Alliance Report,* pp. 11ff.

As stated, however, there were radical differences in the respective proposed drafts of the two Jewish groups, and Mr. Marshall sought to harmonize their points of view, fearing that differences in their relative demands would cause the official governmental representatives to be divided in counsel instead of presenting a common, solid front against the persecuting "small states." Conference after conference was held, attended by these various delegations, and the English and French delegates soon admitted that they were themselves in favor of Jewish cultural and religious rights clauses, and might not oppose minority representation, which provisions was what the United States delegation really understood by "national Jewish rights," so that a mere matter of nomenclature in large degree divided these groups. Some of the Eastern Jewish delegates stood firm, however, and insisted not merely on the term "national Jewish rights," but understood by them the creation of an international Jewish parliament, to legislate for Jews the world over, and Jewish official representation in the League of Nations, all of which they demanded. These were joined by still others who insisted with them that Jews constitute at least a separate political entity in various East European states, who should elect their own legislative representatives, and turned to the example just afforded by Ukrainia and under consideration (and soon afterwards adopted) in Lithuania, which had separate departments of Jewish affairs, and Jewish block representation with considerable local Jewish political, as well as religious, cultural, and charitable autonomy.[55]

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[53] *British Jewish Report*, pp. 101-102; MS. sources.

[54] *British Jewish Report*, pp. 101-102; compare Marshall memoranda.

In the course of these conferences Mr. Marshall declared that he was in Paris because he considered this the time for every Jew who could be of service to be on the scene of action, to aid in determining the welfare of seven million of his brethren. The fate of the Jews of Eastern Europe was involved, and they approached the question with more knowledge of their needs than we have; preconceived ideas should be put aside, and unity of action sought, which is so important now. Some of the Eastern Jews, with some Western Jewish backing, contended that Western Jewry had no mandate to speak for them, asking different rights than the Eastern Jews themselves wanted, but it was pointed out that it was doubtful if the representatives of Eastern Jewry really voiced the views of even a majority in each of the different countries involved, much less of all. As to the contention of Messrs. Thon and Ussischkin of Poland and Ukrainia, that the Jews constitute a separate international body in the political sense, and that the Jews of England, France and America are not English, French or Americans, Mr. Marshall stated that he "would rather die than accept such a doctrine," a conclusion joined in by a number of the other conferees from England, France and the United States.

It was finally agreed on April 6 to appoint a committee of seven to prepare a formula for submission to the Peace Conference, which consisted of Messrs. Marshall, Sokolow, Wolf, Bigart, Thon, Ussischkin and Adler, but the committee could never unanimously approve of any formula. It was, however, decided to coöperate in all non-controversial matters and engage in no open conflict on matters in dispute. Mr. Marshall (with Judge Mack's coöperation) proceeded to conduct negotiations with the appropriate representatives of the Peace Conference on behalf of the Committee on Jewish Delegations, which resulted in the drafting of the Polish and other minority treaties, as we shall presently see.[56] The text of the Memorial of the Committee of Jewish Deputies (which the English and French Jews never signed), though dated May 10, 1919, was not filed with the Peace Conference until June 9, 1919, by which date the Committee on New States had finished drafting the Polish Minorities Treaty (Miller *Diary,* Vol. XIII, pp. 139-142),[57] and the purpose then was purely academic. Meantime, the American Jewish Congress delegation had an interview, on April 3, 1919, with Secretary Lansing, ex-Ambassador White and Gen. Bliss, at which Judge Mack presented the Congress Memorials (qualified, as aforesaid) and Mr. Marshall outlined their purposes, and the three commissioners expressed their great interest in the cause. The following week Mr. Marshall and Judge Mack had the aforesaid interview with Col. House, who asked for a formula of proposed treaty clauses, together with a brief argument in support thereof.

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[55] Julian W. Mack, "The Struggle for Jewish Rights," in *Reform Advocate,* May 28, 1927; B. G. Richards, "With the Jewish Delegations in Paris," in *Maccabean,* September, 1919; Leon Reich in *Der Jude,* Vol. V, pp. 439-448; *Les Droits nationaux des Juifs en Europe orientale,* issued by the *Comité des délégations juives auprès de la Conferènce de la Paix* (1919); Chasanowitsch und Motzkin, *Die Judenfrage der Gegenwart* (Stockholm, 1919); *Bulletin du comité des delegations juives auprès de la Conferènce de la Paix* (1919-1921); Landauer, *Das geltende jüdische Minderheitenrecht* (1924), and bibliography; Mandelstam *La Protection des minorities* in *Academie de droit international recueil des cours* (1923), pp. 367-519; Marvin Lowenthal on "The European Jew and Minority Rights," in the *Jewish Tribune,* November 6, 1925; *The Zurich Conference for Jewish Rights,* by Rabbi Max Heller and Marvin Lowenthal (New York, American Jewish Congress, 1927); Mignon, *Le Problème juif et le principe des nationalites* (1923); Ruyssen, *Les Minorites nationales d'Europe* (1923); Duparc, *La Protection des minorites* (1922); Israel Cohen, "The Jews under the Minorities Treaties," reprinted from *Contemporary Review,* January, 1929, by American Jewish Congress; *The Religious Minorities in Transylvania* compiled by Louis C. Cornish and the Commission; L. R. Mair's *The Protection of Minorities* (1928); Roucek, *The Working of the Minority System* (1929); Herbert Beutwich, "The B'nai B'rith at the Paris Parley," in *B'nai B'rith News* for September, 1919; account of Louis Marshall's reception on return from Europe in Jewish weeklies, August 1, 1919, and in daily papers the preceding Tuesday.

Even prior to this, on April 1, Judge Mack had broached minority protective clauses drafts to Mr. David Hunter Miller, legal adviser of the American delegation, and learned from him that he had received on the preceding day a very able statement by Prof. Coolidge, of the American advisory delegation (who had just returned from a trip to Eastern Europe), as to the importance of having the Peace Conference formulate minority protective clauses (Miller *Diary,* Vol. VII, Doc. 661, cf. 660 and 662), which had been referred to Mr. Miller for drafting and submission to the Supreme Council, if President Wilson and the Commission approved. Prof. Coolidge's memorandum was particularly able and persuasive, but it does not appear that he acted for anyone except himself, and strangely enough his suggestion did not go further in terms than to urge "a binding declaration on the part of the allied powers, which will tranquilize apprehensions and will serve as some sort of guarantee for the future," though he pointed out that "mere assumption" and "vaguely benevolent assurances on the part of the governments interested" and "prodigal declarations of the most liberal intention" by the "statesmen of the countries to be benefited" will continue to be made "at least until the question of frontiers is settled." Even previously, on March 15, 1919, the Polish Commission of the Peace Conference (composed of Dr. Bowman, Sir Wm. Tyrrel, Jules Cambon, Marquis Torreto and M. Otchias), had formally called the attention of the Supreme Council in writing,

> with a view to avoiding the recurrence of violence of which the population on several occasions had been the victim, to the existing necessity of considering measures such as to guarantee to those portions of

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[56] Besides the minutes of these conferences, resort is had here to the summary account of the "Minority Treaties" contained in Dr. A. L. Sachar's *Factors in Modern Jewish History—A Syllabus* (published by the Department of Synagogue and School Extension of the Union of American Hebrew Congregations, 1927, pp. 115-116, which Dr. Sachar informs me is based on Mr. Marshall's own memorandum.

[57] See draft of this Memorial in *American Jewish Congress Report,* pp. 56-62. French text in Feinberg, pp. 148-163; compare former pp. 32, 21, 27.

> the Polish population who are of different race and religion from the majority, the respect of their confessional rights (*Ibid.*, Vol. XVII, p. 226).

It does not however, appear that this declaration regarding Polish anti-Jewish atrocities had any direct effect on the drafting of the treaty clauses adopted. At the interview in question between Mr. Miller and Judge Mack, the former stated, in answer to the latter's inquiry, that he did not think that there was any chance of getting in any provision about religious equality in the Covenant. Four days later Mr. Miller recommended to Judge Mack and some of his Jewish associates that they take up the Polish provisions, as those seemed to be the most urgent, and he had meantime told Dr. Mott and Mr. Watson of the Y. M. C. A. of the Jewish activity as to minority protective clauses, which was of concern to those American missionary interests in Turkish dominions, and the latter coöperated in some measure in arousing interest in such provisions (Miller *Diary*, Vol. I, pp. 217, 225). Beginning about April 13, Mr. Marshall and frequently also Judge Mack had numerous conferences with Mr. Miller's aide, Prof. Hudson, in many of which Mr. Miller personally participated until he left for the United States about May 29, as his diary shows, and these were continued by Mr. Marshall and Judge Mack until the latter left for home about May 18. But Prof. Hudson reported that they had not submitted a definite proposed draft of provisions to go into the Polish treaty as late as April 19, and he urged them to prepare the same promptly; this delay was doubtless due chiefly to the futile negotiations among all the various Jewish delegations for agreement upon a uniform formula. The very next day a proposed formula was submitted to Mr. Miller by Messrs. Marshall and Mack, together with a memorandum in support of the same.[58] These became the basis for fresh drafts and counter-drafts, the details of which space will not permit discussing here, except to say that the chief differences of opinion related to clauses concerning proportional representation and administration of state educational funds (Miller *Diary*, Vol. I, pp. 264, 265, 270, and Docs. 826 and 841). At an early date it became obvious that Jewish special national, as distinguished from cultural and religious rights were not obtainable, and Oscar S. Straus (who was in close touch with President Wilson and other leading statesmen of the Conference), confirmed this view as early as April 19. Even Baron Edmond de Rothschild opposed the use of the term "national" rights, and suggested "ethnic" as a substitute. Drafting of satisfactory citizenship clauses was particularly troublesome.

In the course of these conferences Mr. Miller took up varying drafts with Col. House, who deemed it inadvisable to make the Jewish claims public but approved efforts to secure support from Dr. Mott, and saw no reason why Mr. Marshall and his associates should not endeavor to get French and British support for their formulæ (*Ibid.*, Vol. I, pp. 267, 270).

[58] See, besides Miller's *Diary* (Vol. I, pp. 259, 262; Vols. VIII and IX, Docs. 822 and 889), Prof. Hudson's files.

By arrangement with Col. House and Messrs. Marshall and Mack, Mr. Miller on April 29 drafted a letter addressed to Col. House about the proposed Polish clauses, enclosing the same as redrafted, which Col. House was then to submit to President Wilson. The letter strongly recommended insertion of provisions of this character in the Peace Treaty, "if minorities in Poland are to receive proper protection," and then similar ones as to Czecho-Slovakia, Roumania, etc., and Lloyd George's support was to be secured through Sir Herbert Samuel (*Diary,* Vol. I, p. 280, and Docs. 886, 887, 903 and 904). As Lloyd George and Clemenceau had not yet been conferred with, duplicate letters and drafts intended for them were enclosed, besides the one intended for President Wilson. Mr. Miller on May 2, also conferred on this subject with Mr. J. W. Headlam-Morley, a legal adviser of the British delegation, and he thought (probably because the peace treaty proper with Germany was nearly ready), that nothing except provisions for a subsequent treaty should go into the former. The draft clauses so far were without any sanctions.

At a meeting of the Big Three (Italy was not, at the time, in attendance) held on May 1, Clemenceau, Wilson and Lloyd George next agreed to set up a special committee, to consist of Mr. Miller, J. W. Headlam-Morley and a French representative to be appointed by Clemenceau (Mr. Berthelot was subsequently named), to meet at once and consider "the international obligations to be accepted by Poland and other new states, as to protection of racial and religious minorities" (Miller *Diary,* Vol. I, pp. 284-285 and Docs. 886, 887, 909 and 910). Besides Miller's earlier draft, one emanating from President Wilson himself was one of the documents referred to this committee, the Wilson draft being declared satisfactory in principle, and it was hoped that the new draft would be ready in time for insertion in the German Peace Treaty.

President Wilson's draft—though quite inadequate technically—is very interesting and reads as follows (Doc. 909):

Treatment of Minorities

(Political)

> The State of —— covenants and agrees that it will accord to all racial or national minorities within the jurisdiction exactly the same treatment and security, alike in law and in fact, that is accorded the racial or national majority of its people.

(Religious)

> The State of —— covenants and agrees that it will not prohibit or interfere with the free exercise of any creed, religion or belief, whose practices are not inconsistent with public order or public morals, and that no person within its jurisdiction shall be molested in life, liberty or the pursuit of happiness by reason of his adherence to any such creed, religion or belief.

When the newly appointed Committee on New States was about to meet, it was discovered that Poland had submitted to the Peace Conference a proposed nationality clause which, thinly disguised, would have permitted her to refuse Polish citizenship to, and to expel from her dominions, all persons who were not born there or settled there prior to April 24, 1886 (the date of Prussian establishment of a Colonization Commission), and their wives, even if the latter were native born, and naturalization should be had only in each particular instance by special administrative or legislative Polish consent, as in Roumania. Although this was ostensibly aimed at "German settlers" only, it embraced many others, as Mr. Miller and Prof. Hudson pointed out in an official memorandum (Miller *Diary,* Vol. I, pp. 284-286 and Doc. 910), and in fact Poland began before the Polish treaty was signed to classify nearly all her Jews as aliens. This circumstance rendered adequate minority treaty clauses, with a satisfactory citizenship clause, all the more essential.

Mr. Headlam-Morley at first drafted independent provisions, but soon thereafter acquiesced in the Miller draft, as modified. President Wilson ruled, soon after the appointment of the committee, that Roumania was to be treated as a "new state," in view of her large prospective accessions of territory. A new report with new draft clauses was soon prepared by the Committee on New States for submission to the Supreme Council (Miller *Diary,* Vol. I, pp. 286-287; Vol. IX, Docs. 914, and 915), which outlined the procedure followed of having the minority protective clauses proper go into separate treaties by the five Allied and Associated Powers with Poland, Roumania, etc., and merely have a reference and consent thereto in the treaty with Germany, etc., unless (as was doubtful) the former could be ready in time, as favored by Mr. Miller, but if two sets of treaties were to be drafted, those with Poland, Roumania, etc., were to be ready for signature at the same time as the general treaty with Germany, Austria, etc. In general, and barring some differences in form, the treaties with Poland, Roumania, Czecho-Slovakia, etc., were to be similar in form. The sample Polish treaty, as drafted, still lacked the important sanction clauses ultimately inserted, as to appeal in the event of infractions, to the League of Nations and the World Court.

The Council of Three on May 3 approved in principle of the plan of inserting the proposed clauses in a separate treaty with Poland, the exact language to be further considered (Miller *Diary,* Vol. I, pp. 286-287; Vol. IX, Doc. 917, p. 263). Mr. Balfour and Baron Makino attended the meeting of the Supreme Council in question, as well as Mr. Hankey the secretary, and the members of the Committee on New States. Items C and D of Clauses 3 of Article 3 were criticized there as too broad; Mr. Lloyd George pointed out that discrimination might be proper against a foreign-born citizen, such as the United States requirement that only a native-born citizen might be President. The question of the rights of minorities was taken up, and the sentiment was entirely against creating any committees authorized to appeal to the League, such as the Jews wanted (Miller *Diary,* Vol. I, p. 287), and Mr. Miller told Mr. Marshall on May 3 that he was not at liberty to inform him of just what had occurred (a view shared at the time by Col. House), but that the idea that they had about creating corporate nationality entities would undoubtedly not be accepted.

When Mr. Marshall and Judge Mack met Mr. Miller on May 4 they had already learnt of the reappointment of the Committee on New States from Sir Herbert Samuel, who had lunched with Lloyd George the day before. He did not discourage their conferring with Mr. Headlam-Morley. Mr. Miller redrafted the article that day, the result being very similar to the articles as finally adopted in the Polish treaty, except that there was a proportional minority representation clause, the Saturday Sabbath clause was different and the League of Nations and World Court sanction clauses were not yet inserted (Miller *Diary,* Doc. 920). The first page of the new draft, as redrafted (Doc. 921), became the basis of the committee's new discussion.

Mr. Miller next day conferred further with Prof. Hudson, and his diary indicates that sentiment in the American advisory delegation was by no means unanimous, Prof. Lord, for instance, being very pro-Polish and his general idea being to do nothing in the way of protecting minorities (*Ibid.,* Vol. I, pp. 289-290). It should, in fact, be remembered that an independent and vigorous Polish state was one of President Wilson's Fourteen Points, and that even Col. House was one of the best friends Poland and its President, Paderewski, had at the Peace Conference. The Committee on New States next decided to prepare its own draft anew, and not to discuss the matter with the Jewish representatives or those of the new states until after they had themselves agreed on a new draft. Meantime, the Supreme Council approved of including Roumania and Greece as "new states" within the order of reference to the committee, and on May 9 it was decided that an Italian representative should be appointed on the Committee on New States, Mr. Martino being thereafter named. The provision for Jewish and other minority political proportional representation in Poland was rejected, but it was decided that, in the event of an exchange of notes between Poland and the Allies, the Supreme Council should be asked to recommend it to Poland (Miller *Diary,* Vol. XIII, pp. 13-40).

Considerable difference developed as to the proposition of the United States member on the Committee on New States as to a proposed consultative committee of Rabbis or laymen for organization of public schools and of education, in view of the close relations among the Jews in Poland between education and religion. The English objected to a "consultative" committee, and the French were indifferent.

As to Article 7, as to Jewish right to Sabbath observance, the British representative, Mr. Headlam-Morley, offered a supplemental provision going beyond the American clause, and providing that Jews observing the Saturday as Sabbath and Holy Days shall not be prohibited from pursuing their secular affairs on Sundays, and when this was rejected by his associates, announced that he would submit his draft to the Supreme Council in a separate report (Miller *Diary,* Vol. I, p. 300; Vol. XIII, pp. 40-41, 44ff.). During this period Messrs. Miller and Hudson were in constant conference with Messrs. Marshall and Mack as to drafts of the Polish treaty, but when Mr. Headlam-Morley refused a transcript to Mr. Lucien Wolf under his understanding that such course was unauthorized, the full committee decided that it was of the highest importance to keep its proceedings strictly confidential (*Ibid.,* Vol. XIII, p. 48). In preparing its report to the Supreme Council the committee pointed out that they found it necessary to add certain special Jewish clauses to the general minority provisions, the Jews constituting both a race and a religious sect, and being spread all over Poland, while other minority settlements were largely compact, and the anti-Jewish feeling there being very tense. It was stated that it was not deemed safe or just to give Germans in Poland the same minority rights as the Jews.

It was unanimously decided by the Commission that Jews should not be recognized as a definite nationality to have separate electoral curiæ in the Diet or other bodies, as this would create a state within a state and undermine Polish authority, and such clauses were really unnecessary, nor were minorities given the right to appeal to the League of Nations direct in the case of infractions. The proposed additional Sabbath clauses were regarded as inconsistent with the sovereign rights of all modern states. In fact, the Jewish deputation asked nothing specifically for Jews as such other than Sabbath observance, which was not asked for each minority group. It was reported that the committee was particularly unwilling to communicate to the Poles the proposed articles until action had been had on them by the Supreme Council, though it had received informal suggestions from them and the Jews, and it was further suggested that that body might approve them in principle, and direct communication of them thereafter to the Polish representatives and the Jewish, with a view to receiving their observations (*Ibid.,* pp. 48-63). In a memorandum to the President under date of May 13, 1919, Mr. Miller stated that Mr. Headlam-Morley had shown an extraordinary change of view from the time of Mr. Miller's first discussion with him; then he was anti-Jewish and pro-Polish but he had now suddenly changed, and went further in favor of clauses desired by Jewish representatives than he himself thought reasonable. This course (on the Sabbath provision) was attributed to a luncheon conference Sir Herbert Samuel had had just previously with Lloyd George (*Ibid.,* Vol. XIII, Doc. 945). As to the Sabbath clause, Mr. Miller reported to the President under date of May 15 that his own draft provisions did not go as far as the American Jewish representatives desired, but he deemed them sufficient and as going further than any such treaty had ever gone before. Annex B, the British minority draft (which Mr. Miller opposed), provided in the first paragraph that "Jews shall not be compelled to perform any act which constitutes a violation of their Sabbath, nor shall they be placed under any disability by reasons of their refusal to attend courts of law or to perform any legal business on their Sabbath." Its second paragraph read: "Poland hereby declares its intention to refrain from ordering or permitting elections, whether general or local, to be held on a Saturday, nor will registration for electoral or other purposes be compelled to be performed on a Saturday" (*Ibid.,* Doc. 954). Mr. Marshall and Judge Mack, when shown the committee draft by Mr. Miller on May 15 thought it did not go far enough (*Ibid.,* Vol. I, p. 312).

The report was approved in principle by the Big Four on May 17, with directions to deliver the draft to the Polish representatives and hear their observations (*Ibid.,* Vol. I, p. 320; Vol. XIII, pp. 64-67), but it appeared that Mr. Headlam-Morley had alone of the Committee on New States been called in to this session of the Supreme Council, and they had approved of his minority Sabbath clause, which course greatly irritated Mr. Miller, and the result he ascribed to Sir Herbert Samuel's influence over Lloyd George (*Ibid.,* Vol. I, pp. 320-321; Vol. XIII, pp. 64-67). As a matter of fact he overlooked the circumstance that Mr. Marshall was in direct communication with President Wilson on this and related questions, and had an opportunity to present arguments outweighing Mr. Miller's, and the same was doubtless true as to representations by Judge Mack to M. Tardieu, and doubtless also as to appeals by English, French and Italian Jewish representatives to members of their own Peace delegations.[59]

With respect to the policy of pressing requests for "national Jewish rights" in a political sense, the folly of such a course was indicated by an interview which Messrs. Cyrus Adler and Lewis Strauss and Miss Lowenstein had with Mr. Herbert Hoover in Paris as far back as April 19. In the course of this, the future President advised that the Jews ought to insist on "political equality and religious liberty," and added that it is "a profound error to introduce the words 'national rights' into the discussion." When Dr. Adler pointed out that though this was also his own personal view, the Jews of Eastern Europe insisted on national minority rights as their only safeguard, and urged that they knew their own conditions better, and that Western Jews had no right to impose their own views upon them, Mr. Hoover said he considered this a most serious mistake. He spoke with great emphasis on the danger of political cleavage which might cause untold friction for a hundred years, and said that the only salvation of the people lay in their support of the government of the country, and in their receiving political equality and religious liberty, and he gave permission to quote him to this effect.[60]

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[59] In fact, besides more or less formal acknowledgments to Mr. Headlam-Morley in the British Jewish and other Jewish reports, Mr. Headlam-Morley's services and those of his principals and other leaders in this cause were discussed at a dinner given by distinguished British Jews constituting the "Maccabeans" of London to Mr. Lucien Wolf, reported in the London *Jewish Chronicle* of June 11, 1920. Mr. Wolf said: "The Jewish delegations were not the final and decisive forces that were at work. These they had to seek in the high statesmanship and unwearying good will of the Conference itself, of the Allied and Associated Powers and more particularly of the Commission on New States, to which the framing of the Minorities Treaties was confided, and on which the great altruistic traditions of British policy were so worthily and admirably represented by one of their guests, Mr. Headlam-Morley. He had spoken of good-will, but as a matter of fact, it went far deeper than that. In a very large sense, the initiative of the minorities treaties might be said to belong to them. It is true that the first detailed plan was the Joint Committee's and that they were privileged to have frequent opportunities of discussing its application and the redaction with the members of the Commission on New States, and even occasionally with members of the Supreme Council itself, but if they had been successful, in carrying these points, it had been because the Government's governing principles of these Treaties had already been accepted by the leading statesmen of the Conference, and had indeed been embodied in the Covenant of the League of Nations and in the Labor Convention. These two great instruments applied moral principles to the political reconstruction of Europe on a far larger scale than had ever before been attempted. He recollected how zealous some members of the Conference were in respect to the Treaties." . . . Mr. Headlam-Morley paid a tribute to the services rendered by Mr. Wolf in Paris and the great knowledge which he brought to bear upon the work. He was proud of the fact that Anglo-Saxon principles had been applied in the treaties, and he appealed to all to unite in making a success of the League of Nations, with which the future of the Jews in Eastern Europe was bound up. Mr. Claude G. Montefiore also emphasized the great value of Mr. Headlam-Morley's services on the same occasion.

On May 21 the Committee on New States drafted a letter to be forwarded to the Polish representatives, transmitting the treaty draft for their comments (*Ibid.*, Vol. XIII, pp. 74-81), and on May 23 a similar letter to Mr. Bratiano, the Roumanian delegate, was drafted, substantially similar treaties with Roumanian and other "new" states being drafted from time to time, modified only on the basis of local conditions and valuable advices received both from representatives of minorities and from the governments involved.

On May 26 Mr. Marshall and Dr. Cyrus Adler had a long interview with President Wilson concerning the so-called Polish and Ukraine "pogroms" and the minority protective clauses.[61] The President stated that he was in deepest sympathy with granting racial, religious and linguistic rights to the minorities, but that he feared that the demands for separate national rights would defeat the object of those who requested them; that it would mark these minority groups off as a separate corporate body and would thereby render them liable to jealousy and attack. He expressed his sympathy with the request for the permission of Sabbath observance. Mr. Marshall also discussed the question of the rights of minorities to make an appeal to the League of Nations in case of an infraction of their treaty rights. The President spoke at some length on this subject, explaining that he thought it was not in the interest of the minorities themselves that they should make the appeal, and indeed they could not, unless they were recognized as an independent corporate body or legal entity, which he considered inadvisable. As for the Jews it seemed to him that the Jews of America and England would keep a close watch over the affairs of their brethren in Eastern Europe, and if there were any infractions of the treaty they would have the right to bring them to the attention of their governments and through their governments to the League of Nations. The fear was expressed that this might cause delay, but the President thought otherwise. Dr. Adler suggested to the President that the Jews in Eastern Europe were not desirous of being beholden to their brethren of the Western world, but would like to be in a position to stand on their own feet in the matter of securing their rights under the treaties. The President said that while he quite understood this point of view, he still did not think it advisable to provide for separate national rights or for the right of a minority in a given country to appeal against the government. He said that if these national rights could be granted to the Jews alone, he would gladly assent, but since they would have to be granted to all minorities, such as the Germans in Bohemia, etc., the whole policy would be fraught with disturbances.

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[60] MS. sources.

[61] MS. sources; Miller *Diary*, Vol. I, p. 327.

On May 29 Mr. Miller left for the United States, to work there on behalf of the League of Nations, and Prof. Hudson became his successor in Paris, on his nomination and with Col. House's approval, and on May 29 Mr. Adatci, representing Japan, was added to the Committee on New States. The next meeting of the Committee on New States was also attended by Lord Robert Cecil, by invitation of the committee, in order to secure his views as to appeals to the League, in the event of infraction of minority rights, and after outlining his suggestions, and giving opportunity for some discussion of them, he himself asked leave to consider certain points which had been raised, and to submit an amended draft at a later meeting.[62] Lord Robert Cecil (in conjunction with Mr. Lucien Wolf) had at first suggested a clause permitting appeals to the League to be taken by religious or racial minorities if they did not receive satisfaction in the national courts involved. This Mr. Marshall deemed very undesirable, as he thought it very ill-advised to authorize legal proceedings by Jewish minorities, for instance, in the Polish courts, which would not only lead to grave friction but would be likely to result in adverse findings of fact being made, which would be binding or at least embarrassing on appeal to the League or the World Court. Even an optional coördinate remedy in the state courts or by appeal to the League would be likely to be construed as requiring an application first to the state courts, with the results just mentioned. When Prof. Hudson mentioned these objections to the committee in Lord Robert Cecil's presence, the latter at once withdrew his suggestion, asking leave to submit a modified draft next day, as above referred to. This he then did by submitting the formula which in substance is embodied in the Polish treaty as Article 12 (quoted in Mr. Marshall's foregoing address), except that the concluding paragraph, as to appeals to the Permanent Court, provided, in Lord Robert Cecil's draft, that any Polish citizens or group of citizens aggrieved might appeal to the Court, instead of limiting the same to one of the Principal Allied and Associated Powers, or any power which is a member of the Council.

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[62] Miller *Diary*, Vol. XIII, pp. 96-98, 99-105, 106-110, 136-142; MS Minutes of Committee of Jewish Delegations of May 30, 1919; MS. sources; letter from Louis Marshall to Prof. Hudson, dated June 2, 1919; Prof. Hudson in *What Really Happened in Paris*, p. 473.

The American representative did not want League action to be limited to applications by members of the Council, but wished any member of the League to have such right, in which suggestion Italy acquiesced, but not England, France and Japan, and the Committee on New States decided to submit these varying drafts for determination by the Supreme Council, as also the further substitute (as to which there was the same division), as to authorizing the Permanent Court to admit minorities, whether as organized groups or as individuals, complaining against their state on account of infractions of the minority rights provisions. These alternative clauses also met with the approval of Lord Robert Cecil and Mr. Marshall, and of Lucien Wolf (who rendered invaluable services throughout), and it appears that it was Lord Robert Cecil who first suggested granting a right to World Court action. In its report to the Supreme Council, the Committee on New States stated that

> it was generally felt by the Committee that it was necessary to make the guarantees of these articles really effective, but there was great difficulty in determining as to the method in which this should be done. . . . The Committee had the advantage of the advice of Lord Robert Cecil, who pointed out that it would be desirable that so far as possible the execution of the guarantees should be dealt with not by the Council of the League of Nations but by the Permanent Court of International Justice to be established.

In his memorandum for the President on the question, Prof. Hudson wrote (*Ibid.,* Vol. XIII, pp. 141-142):

> Lord Robert Cecil strongly urged before the Committee a draft which would have given to any minority, or to any member of any minority, the right to complain to the Permanent Court of a violation of the treaty. Mr. Headlam-Morley however insisted that there should be no appeal except by a State. Mr. Berthelot really favored no resort to the Permanent Court, except by reference from the Council of the League. It may become very important that a minority, as such, should be able to invoke the Permanent Court's jurisdiction without the necessity of persuading a foreign government to act as its champion. While I was unwilling to go so far as Lord Robert Cecil's proposal, I think that we should not close the door against the possibility of proceedings in the Permanent Court by a minority. The experience of the Supreme Court of the United States has proved the wisdom of leaving to the Court itself the framing of safeguards against any exercise of its jurisdiction, which might provoke political uneasiness. The British text seems too rigid also in view of the difficulty in effecting any changes in these clauses in the future.

The Supreme Council, before deciding as to these varying drafts, conferred with representatives of Poland, Roumania, Czecho-Slovakia, Jugo-Slavia and Greece, and then decided that the right to bring such infractions before the League should be limited to members of the Council, and the right to secure action by the Permanent Court should be limited to states (*Ibid.*, Vol. XIII, pp. 167-170).

Meantime there was a secret plenary session of the Peace Conference on the afternoon of May 31, 1919, for the purpose of communicating to the Allied and Associated Powers the conditions of the proposed peace with Austria, which contained clauses substantially similar to those of the German and Polish treaties,[63] and Roumania employed the opportunity to protest against these minority protective clauses.[64] M. Bratiano, the Roumanian delegate, referred to the Roumanian Delegation letter of May 29, 1919, to the Committee on New States (*Ibid.*, Vol. XIII, pp. 89-90), and he urged:

> It is essential that the leading members of the League of Nations should abstain from any attitude which would not be identic toward all States. Foreign intervention, as a matter of fact, even if it granted no liberties beyond those which the Roumanian State is determined to guarantee to all its citizens, might compromise the work of fraternization which the Roumanian Government has taken as its aim. On the one hand, certain minorities might consider themselves absolved from all gratitude towards the State, whereas it is precisely on the development of that sentiment that the State relies for cementing the brotherhood of the various races; on the other hand, a tendency would arise toward the creation of two classes of citizens in the same kingdom: the one trusting in the care of the State for their interests, the other disposed to be hostile to the State, and to seek protection outside its frontiers.

He referred to the withdrawal before the League of Nations Commission of the Peace Conference, of minority protective clauses, and said in conclusion:

> Because it was thought that this Article infringed State sovereignty, Roumania determined, in the interests of liberty and justice for all, as well as in that of her own internal development, to safeguard the rights of minorities; as an independent State, she does not claim any exceptional treatment for herself, but she cannot, on the other hand, accept a special régime to which other sovereign States are not subject. For this reason, she declares her readiness to insert in the draft Treaty Article 5, Part 3, Section 4, the following text: "Roumania grants to all minorities of language, race and religion residing within her new frontiers rights equal to those which belong to other Roumanian citizens."

M. Clemenceau, the president of the Conference, replied:

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[63] See text of all the Minority Treaties in Temperley, Vol. V, pp. 432-470; *American Jewish Year Book*, 1920-1921, pp. 101-130; *American Jewish Congress Report*, pp. 62ff.; Publications of League of Nations entitled *Protection of Linguistic, Racial and Religious Minorities by the League of Nations* (1927, 1929); *Encyc. Britannica* article "Minorities."

[64] See protocol; Feinberg, pp. 95-105, 164-167; Temperley, Vol. V, pp. 130-132.

> I am very glad to know that, as regards the rights of minorities, M. Bratiano's opinion coincides precisely with our own. What we have to ascertain is whether, in view of the past history of several peoples, it may not be necessary to give, I will not say additional guarantees, but such guarantees of a more complete nature as may be admitted to be necessary. That is a question in regard to which we have got to take a decision, and I beg M. Bratiano, and anyone else who may have observations of a like character to offer, to rest assured that there is no intention of humiliating anyone or of encroaching on the sovereign rights of any nation whatsoever, but rather to remember that, in the matter of minorities, everyone's history has not been quite the same. Some distinctions are necessary in this connection, so much so that we desire to humiliate no one when we suggest conferring a right to control, not on foreign governments, as M. Bratiano states in his text, but on the League of Nations, whose control we all accept in our own territory in the circumstances to which M. Bratiano has alluded. . . . It cannot be humiliating for Roumania to receive friendly counsel given to her by States which are named, the United States of America, Great Britain, Italy and France. No one of these states desires to exercise any improper power in Roumania. He added that rectifications of historical traditions which have been perpetuated in certain countries have been requested for a long time past, even in other Treaties, but it has been impossible to secure them. In these circumstances, the text under consideration is rather in the nature of an encouragement and support.

M. Bratiano replied:

> The Conference of the Allied and Associated Powers . . . have striven to establish the right to equality of great and small States, and to set up rules which may henceforth serve both as principles and precedents. Among those rules there are some, in virtue of which it is sought to-day to establish classes of States, which differ in the matter of sovereignty. On behalf of Roumania, I am unable to admit this principle. There is no question here of friendly counsel, but of formal engagement. The Roumanian Government will always be willing to accept such advice, but counsels which are recorded in treaties and in the form of precise engagements between one government and another cease to have the character of advice. . . . We desire, together with you, to set up a new world, to take the place of the old one. This new world must be established in such manner as to enable states to find, in the persons of their citizens, devoted sons and a life of brotherly concord. If minorities are conscious of the fact that the liberties which they enjoy are guaranteed to them, not by solicitude for the welfare of the State to which they belong, but by the protection of a foreign State, whatever it may be, the basis of that State will be undermined.

M. Paderewski said:

> I state, on behalf of the Polish Government, that Poland will grant to all minorities of race, language and religion, the same rights as she does to her other nationals. She will assure to those minorities all the liberties which have already been, or may be, granted to them, by the great Nations and States of the West, and she will be ready to amplify those rights in the same degree as the League of Nations may consider desirable for the States which compose it. I am convinced that these guarantees, when once incorporated in the fundamental laws of Poland by her Constitutional Diet, will be in absolute harmony with the noble and lofty spirit which animates the great labors of the Peace Conference. That is all I have to say.

Mr. Kramar, for Czecho-Slovakia, stated:

> I accept the proposed text, subject to some slight modifications. . . . We are ready to do everything possible for minorities in order to have peace at home, and we are perfectly ready to deal with these questions together with the Great Powers. . . . I ask for the deletion of the words "which may be regarded as necessary," because they are superfluous and even rather wounding to our feeling of independence. The result will be the same if they are omitted. It goes without saying that the Great Powers possess sufficient authority to ensure our acceptance of what we may be able to concede without fear for the sovereignty of our State, but there is no advantage in saying so in the text.

Mr. Trumbitsch, on behalf of the Serb-Croat-Slovene state, suggested similar verbal changes.

President Wilson thereupon replied in phrases which have often been reprinted. He repudiated the idea that the great powers desired to play an arbitrary rôle in these matters or assume an undue influence. He proceeded to say:

> We are trying to make a peaceful settlement, that is to say, to eliminate those elements of disturbance, so far as possible, which may interfere with the peace of the world, and we are trying to make an equitable distribution of territories according to the race, the ethnographic character of the people inhabiting those territories. And back of that lies this fundamentally important fact, that when the decisions are made, the allied and associated powers guarantee to maintain them. It is perfectly evident, upon a moment's reflection, that the chief burden of their maintenance will fall upon the greater powers. The chief burden of the war fell upon the greater powers, and if it had not been for their action, their military action, we would not be here to settle these questions. . . . In those circumstances, is it unreasonable and unjust that, not as dictators but as friends, the Great Powers should say to their associates: "We cannot afford to

> guarantee settlements which we do not believe to be right, and we cannot agree to leave elements of disturbance unremoved, which we believe will disturb the peace of the world?" Take the rights of minorities. Nothing, I venture to say, is more likely to disturb the peace of the world than the treatment which might in certain circumstances be meted out to minorities. . . . I beg our friends from Roumania and from Serbia to remember that while Roumania and Serbia are ancient sovereignties, the settlements of this conference are adding greatly to their territories. . . . It is not, therefore, the interventions of those who would interfere, but the action of those who would help. I beg that our friends will take that view of it, because I see no escape from that view of it. How can a power like the United States, for example—for I can speak for no other—after signing this treaty, if it contains elements which they do not believe will be permanent, go three thousand miles away across the sea, and report to its people that it has made a settlement of the peace of the world? And yet there underlies all of these transactions the expectation on the part, for example, of Roumania and of Czecho-Slovakia and of Serbia, that if any covenants of this settlement are not observed, the United States will send her armies and her navies to see that they are observed. . . . I beg that we may part with a sense, not of interference with each other, but of hearty and friendly coöperation upon the only possible basis of guarantees. Where the great force lies, there must be the sanction of peace.

In replying, M. Bratiano said:

> If principles, such as those which it is sought to embody to-day in the Treaty with Austria, had been inserted in the Statutes of the League of Nations, we should not have raised any objection. President Wilson will certainly admit that the Roumanian Delegation voted in favor of these principles being established once for all and as applicable to all. . . . It needs no effort to secure the recognition of the rights of minorities. There is no single State represented here which is not convinced of the necessity for respecting and developing those liberties; therefore, allow these States to develop themselves in the only atmosphere likely to render possible the consolidation of the general political state which we are here to establish to-day.

M. Venizelos, on behalf of Greece, remarked that the clauses under discussion do not necessarily form an essential part of the Treaty of Peace with Austria. He suggested that they should be detached before communicating the proposed peace terms to Austria the following Monday, and that they be referred to the heads of the Five Great Powers to reexamine them in conjunction with representations of the smaller powers. He added:

> There would thus be nine or ten persons in all seated at one table who would certainly find some means of allaying the legitimate uneasiness of the Powers with limited interests, while giving satisfaction to the Great Powers. If you think it necessary to embody those clauses in the Treaty of Peace with Austria, we shall have sufficient time, up till the day before the signature of the Treaty—since these clauses do not concern Austria—to formulate them and insert them in the Treaty in order to obviate the drafting of a special Treaty for matters which concern the Powers with limited interests.

In fact, though the Supreme Council of the Principal Allied and Associated Powers the same day decided not to alter the minority clauses in the treaty with Austria in question, this was unknown for some time, and it was rumored that Venizelos' suggestion that the clauses be reconsidered by a new commission of ten heads of states had been approved, and new representations to the Peace Conference heads were made by some of the Jewish delegates. Col. House on June 3 reassured Mr. Marshall on the point, however, and at the same interview asked for suggestions as to method of presenting complaints for infringement of minority rights.

Meantime, pursuant to the direction previously given, the Polish treaty draft had been submitted to the Polish delegation, and M. Paderewski transmitted a letter of criticism, involving matters of principle, chiefly on the basis of alleged international interference with Polish internal affairs, dated June 15, 1919 (*Ibid.,* Vol. XIII, pp. 171-179), which the Supreme Council referred back to the Committee on New States, with directions to see whether some of the objections could not be met (*Ibid.,* Vol. XIII, pp. 170-171).

The latter committee reported that the difference between the Polish attitude and the proposed treaty is "fundamental," "a matter of principle," except as to some details which they modified—the chief of which made the clauses largely inapplicable to German settlers in Poland, because the German Peace Treaty contained no reciprocal clauses (Vol. XIII, pp. 181-193)—and they were approved by the Supreme Council (*Ibid.,* pp. 197-201).

The famous letter of M. Clemenceau to M. Paderewski of June 24, 1919, discloses the differences of view and the need for such treaty clauses. The Supreme Council had previously directed that the Committee on New States should draft a letter to go to Poland, justifying the provisions of the treaty, and the letter in question was submitted in draft to that committee by Mr. Headlam-Morley on June 21, and approved in principle for submission to the Supreme Council (*Ibid.,* Vol. XIII, p. 197), and in fact it was drafted by the British delegate in conjunction with Prof. Hudson, and with the coöperation of some of the leading Jewish representatives. Although it bears Clemenceau's name he personally had scarcely anything to do with it, other than to sign it, and Prof. Hudson is on record as stating that he took very little personal interest in the whole minority protective system.[65] The letter appears in full herein, and its significance and importance as a great state paper have already been commented upon. With one exception, the Supreme Council approved of the letter exactly as it was drafted by the Committee on New States, but the exception is interesting, though not very relevant. At Prof. Hudson's instance (based on a memorandum he prepared for President Wilson's own eye, dated June 23), the phrase in the Committee draft "It is on the *guarantee of these Powers* that the future Poland will to a large extent depend" was changed to read, "It is on the support which the resources of these Powers will afford to the League of Nations that the future Poland will to a large extent depend." The omitted phrase was taken bodily from President Wilson's speech at the secret plenary session of May 31, but such reference to a guarantee was likely to complicate ratification of the treaty in the United States, and in fact assaults on President Wilson in the Senate because of the supposed contents of this speech induced him the following year to give out to the press the actual text.

Even after this letter to M. Paderewski, dated June 24, 1919, was delivered, there were rumors that the treaty would be modified, which gave much uneasiness to some of the Jewish delegates. In fact, the Polish delegation refused, when the treaty was delivered to them, to sign it, but an ultimatum was finally issued to them, and some slight changes were made during the last few days. The American delegation was not absolutely sure that they would sign until the last moment, and it was in fact signed in a different room, but on the same day, as the treaty with Germany, on June 28, 1919. It was subsequently duly ratified by Poland, and by the Great Powers, other than the United States.[66]

Space does not permit taking up in detail herein the drafting of the other Minority Treaties. They are based on the Polish treaty, though somewhat less detailed and specific, conditions of the minorities in the other countries involved not having been so bad as in Poland, and in fact the terms of the Polish treaty with reference to the rights thereunder of German minorities have been brought several times for determination before the World Court. The Miller *Diary* contains, in the minutes of

[65] House and Seymour, *What Really Happened at Paris,* p. 473.

[66] Its importance, in view of contemporary Polish anti-Jewish atrocities and the Polish anti-Jewish economic boycott, is indicated by the report of the Marshall-Dmowski interview in the *American Jewish Congress Report,* pp. 97-105, and the reports of the United States Mission to Poland, of which Hon. Henry Morgenthau was chairman (United States Documents, 66th Congress, 2nd Session, Senate 177), the first of which is reprinted in Morgenthau's *All in a Life-Time,* pp. 407-423, compare pp. 348ff.; the reports of the Stuart Samuel British Mission to Poland (printed in the London *Jewish Chronicle,* July 9, 1920); Arthur L. Goodhart's *Poland and the Minority Races* (1920), and a review of the last-named volume by the editor hereof in the *American Hebrew,* December 3 and 24, 1920; Moshowitsch, "The Jews in Poland" in London *Jewish Chronicle,* November 29, 1929, and January 3, 1930. See also Paderewski's own statement in Poland as to the Minority Treaty in *Current History,* September, 1920, pp. 492-493, and *Délégation polonaise a la Conference de la Paix. Actes concernant la France entres les cinq Principales Puissances et la Pologne* (1919).

the Committee on New States, valuable and important reports as to the various minorities involved, both from their representatives and their governments, which were carefully studied in connection with the draft of the minority treaties. The citizenship clauses of the Roumanian treaty were particularly important, and received most careful consideration. As shown, Bratiano, the Roumanian premier, was the leader in opposing their acceptance, and in connection with his opposition to them he sought to gain Mr. Morgenthau's support, knowing that on the issues of Zionism and Jewish nationalism he was strongly opposed to the views of the Committee of Jewish Deputations. Mr. Morgenthau, had, however, himself urged President Wilson to approve the Polish minority treaty in Paris, and told Bratiano that "the United States was absolutely pledged to securing equal rights for minorities everywhere, and that he heartily favored them." Bratiano expressed his disappointment, and stated that Roumania would never consent to such a treaty, and that he would rather resign as premier than sign the same, which he actually did do, when the time for signing came.[67] So ended his controversy with Prof. Luzzatti, hereinbefore referred to by the latter.

Unfortunately, infractions of these treaties have taken place from time to time in several of the countries involved, particularly in Poland, where the Constitution has broken down, the government has declined to follow the decision of the judicial courts (as distinguished from administrative tribunals) that the Constitution is self-executing in repealing Czaristic anti-Jewish laws, and many devices have been resorted to, to discriminate against the Jews in economic fields. Nevertheless, it is true, as quoted in Mr. Marshall's paper, that "the only thing that stands between destruction and thirty-five million human beings, are these treaties." The proper attitude to be pursued by Polish Jews toward their country, in view of the adoption of the Polish treaty, and on the presumption that it would be observed, was, however, well expressed in a joint letter sent under date of July 11, 1919, by Mr. Marshall, Dr. Cyrus Adler and Nahum Sokolow to the late Dr. Boris Bogen, for communication to the Jews in Poland, as follows:

> This is an act of the first magnitude. In truth, it constitutes a genuine charter of liberty for all minorities, because its effectiveness is guaranteed by the sanction of the Covenant of the League of Nations. It is our firm belief that these treaties have at last absolved the Jews of Eastern Europe from the serious disabilities from which they have so long suffered and will forever end the grave abuses of the past. This will enable the Jews as well as all other minorities to live their own lives and to develop their own culture. We therefore earnestly counsel our brethren in Poland to accept this charter and to enter upon their new relations unhesitatingly and contented with what has been granted to them.

[67] Morgenthau's *All in a Life-Time,* p. 326, and personal advices from him.

We believe, as Jews have always believed, that their welfare depends on that of the state in which they live. The last four years of war and the disturbed years preceding it have been a period of suffering and injustice. A better era is now dawning. Fully realizing our responsibility in doing so, we urge our brethren in Poland not to dwell on past grievances but to exercise the precious rights that are now theirs, to give evidence of their readiness to extend the hand of friendship to their fellow-citizens and to coöperate with them for the good of the State whose ultimate prosperity is dependent on the existence of cordial and harmonious relations on the part of all its people. Let our eyes be turned toward a better future and let us rejoice that the Jews of Poland are now, in law and in fact, members of the Polish State, prepared to perform their obligations, and at the same time ever ready to insist that the rights now conferred shall never be denied or diminished.

Date Due

Mr 6 - '44
AP22 '48
MY 11 '48
MY 3 '50
FE5 '51
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